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THE LETTERS AND THE LIFE

OF

FRANCIS BACON

INCLUDING ALL HIS

OCCASIONAL WORKS

NAMELY

LETTERS SPEECHES TRACTS STATE PAPERS MEMORIALS DEVICES
AND ALL AUTHENTIC WRITINGS NOT ALREADY PRINTED AMONG HIS
PHILOSOPHICAL LITERARY OR PROFESSIONAL WORKS

NEWLY COLLECTED AND SET FORTH

IN CHRONOLOGICAL ORDER

WITH A

COMMENTARY BIOGRAPHICAL AND HISTORICAL

BY

JAMES SPEDDING

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p. 124, l. 26 . . .	number	number of.

occasion to which the letter refers must lie between those dates. The date given to it in the modern printed copies—1603—has no doubt been inserted by some one upon conjecture; 1603 being the year when knights were made so freely,—the true date of Bacon's marriage not being known,—and the extreme improbability that he could at that time have been so far advanced in the King's good graces as to ask for a personal favour of this kind not being considered. In 1607 there is nothing strange either in the making or

[1] Calendar of State Papers, Dom. James I.

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BOOK IV.

CHAPTER I.

A.D. 1607–8. Oct.—April. ætat. 47.

1.

On the 5th of October, 1607,—according to the MS. lists of knights in the Herald's College,—the King, being then at Royston, knighted Sir John Constable. And though the statement involves, as we shall see, one small difficulty, it may serve in the absence of better evidence to determine the place of the next letter; to which (printed originally in the 'Remains,' without any date) some incautious editor, transcriber, or possessor, has attached a date which must be wrong.

John Constable, of Gray's Inn, married Dorothy Barnham, a sister of Alice, and so became what would then be called Bacon's "brother-in-law"; at whose request he was knighted. The precise date of his marriage I have not been able to ascertain; but as I find him described as "*Sir* John Constable" in a docket dated January 31, 1607–8,[1] and as he could not be Bacon's brother-in-law before the 10th of May, 1607,—the day of Bacon's own marriage,—the occasion to which the letter refers must lie between those dates. The date given to it in the modern printed copies—1603—has no doubt been inserted by some one upon conjecture; 1603 being the year when knights were made so freely,—the true date of Bacon's marriage not being known,—and the extreme improbability that he could at that time have been so far advanced in the King's good graces as to ask for a personal favour of this kind not being considered. In 1607 there is nothing strange either in the making or

[1] Calendar of State Papers, Dom. James I.

the granting of such a request; his services during the three preceding years having amply deserved it.

"Mr. Murray, of the King's bedchamber," to whom it is addressed, was not one of the gentlemen about the Scotch Court to whom Bacon commended his fortunes at the King's entrance: it is probable, therefore, that he had made his acquaintance since. He appears to have been an early and constant favourite with James, and a sensible man; for though enjoying a large share both of confidence and bounty, he never incurred popular envy, but grew rich quietly, and died Earl of Annandale, in 1640.

A LETTER TO MR. MURRAY, OF THE KING'S BEDCHAMBER.[1]

Mr. Murray,

It is very true, that his Majesty most graciously at my humble request knighted the last Sunday my brother-in-law, a towardly young gentleman; for which favour I think myself more bound to his Majesty, than for the benefit of ten knights. And to tell you truly, my meaning was not that the suit of this other gentleman, Mr. Temple, should have been moved in my name. For I should have been unwilling to have moved his Majesty for more than one at once, though many times in his Majesty's courts of justice, if we move once for our friends, we are allowed to move again for our fee.

But indeed my purpose was, that you might have been pleased to have moved it as for yourself.[2]

Nevertheless, since it is so far gone, and that the gentleman's friends are in some expectation of success, I leave it to your kind regard what is further to be done, as willing to give satisfaction to those which have put me in trust, and loth on the other side to press above good manners. And so with my loving commendations I remain

Yours, etc.

This Mr. Temple, for whom Bacon had endeavoured to obtain the honour of knighthood through the influence of Murray, is supposed by Birch to have been "Mr. William Temple, who had been educated in King's College, Cambridge; then Master of the Free School at Lincoln; next successively secretary to Sir Philip Sidney, Secretary Davison, and the Earl of Essex; made Provost of Dublin College

[1] 'Remains,' p. 78. Tanner MSS. 82, p. 241.
[2] So Tanner MS. "Myself" in the 'Remains.'

in 1609; and at last knighted, and appointed one of the Masters in Chancery in Ireland; and died about 1626, at the age of seventy-two."[1] But I doubt whether he had any reason for thinking so, more than that he was a man whom Bacon was likely to have known and taken an interest in.

The small difficulty which I mentioned as remaining to be explained, is merely that Bacon says his brother-in-law was knighted on a Sunday, and the 5th of October, 1607, when Sir John Constable was knighted,[2] was a Monday. But a mistake of a day in such a matter might easily be made, either through misinformation or misrecollection.

2.

The reduction of Ireland to obedience and civilization had been proceeding slowly, through many difficulties; and though Bacon had not yet found occasion to offer any further advice or help in the work, the two next letters show that he continued to watch the progress of it with interest. The date and occasion of that which I place first is uncertain; except that, being written after Cecil was created Earl of Salisbury, it cannot be placed earlier than the 5th of May, 1605; at which time Sir Arthur Chichester was Lord Deputy of Ireland: and as no question of importance depends upon the date, it is scarcely worth while to seek further for means of fixing it more exactly.

The second letter was printed by Birch "from the MS. collections of Robert Stephens, Esq., deceased," who found it probably in the same collection from which the letter to Mr. Murray came; there being copies of both lying near together in the Tanner MSS., in the Bodleian Library.[3] The date which it bears leaves no doubt as to the occasion to which it relates. The "new accident" concerning which Sir John Davies had sent Bacon a "discourse," can have been no other than the flight of Tyrone and Tyrconnell from Ireland, which had taken place on the 5th of September.

The immediate occasion of their flight seems to have been a summons to appear in London, where a question arising out of a complaint made against Tyrone for some arbitrary proceeding against a

[1] Note in Birch's edition of Bacon's Works.

[2] Nicholls (Progr. ii. p. 154) says he was knighted on the 7th, which was a Wednesday. But he gives no authority, and his own is of course inferior to that of the MS. in the Herald's College; for a note of which I am indebted to T. W. King, Esq., York Herald.

[3] It cannot, I think, have been taken from the 'Remains,' where it first appeared in print (p. 76). For besides that the date is wanting there, the printer's or transcriber's errors are of such a kind that the correct text could hardly have been obtained by any ingenuity in conjecturing.

neighbour chief was to be tried before the King; but the main cause was the determination of the Government to bring the chiefs under obedience to the law. "It is certain," says Sir John Davies, writing to Lord Chancellor Ellesmere on the 12th of September, 1607,[1] "that Tyrone in his heart doth repine at the English Government in his country, where, until his last submission (as well before his rebellion as in the time of his rebellion), he ever lived like a free prince, or rather like an absolute tyrant there. But now the law of England and the ministers thereof were shackles and handlocks unto him, and the garrisons planted in his country were as pricks in his side. Besides, to evict any part of that land from him, which he hath heretofore held after the Irish manner, making all the tenants thereof his villains (though the troth be that for one moiety of his country at least, he was either a disseisor of the BB^s. of Armagh and Clogher, or an intruder upon the King's possession), this was as grievous unto him as to pinch away the quick flesh from his body. These things doubtless have bred discontentment in him: and now his age and his burthened conscience, which no absolution can make altogether clear, have of late increased his melancholy, so as he was grown very pensive and passionate, and the friars and priests perceiving it have wrought mightily upon his passion. Therefore it may be he hath hearkened to some project of treason, which he feareth is discovered, and that fear hath transported him into Spain. For it hath been told my Lord Deputy that as he now passed through his country, he said to some of his followers that if he went into England he should either be perpetual prisoner in the Tower, or else lose his head and his members, meaning (as I take it) he should have the judgment of a traitor. . . . As for us that are here, we are glad to see the day wherein the countenance and majesty of the law and civil government hath banished Tyrone out of Ireland, which the best army in Europe and the expence of two millions of sterling pounds did not bring to pass. And we hope his Majesty's happy government will work a greater miracle in this kingdom than ever St. Patrick did; for St. Patrick did only banish the poisonous worms, but suffered the men full of poison to inhabit the land still; but his Majesty's blessed genius will banish all those generations of vipers out of it, and make it ere it be long a right fortunate island."

"Since the date of these letters (he adds in a postscript), I was commanded by the Lord Deputy to draw an instrument of association to be sworn and subscribed unto by the noblemen and gentlemen of this kingdom. It is done in that form, as I dare boldly say no man would have refused to swear and subscribe unto it; but in

[1] Egerton Papers, p. 413.

regard of the novelty of it, some were of opinion that the safest way was to transmit it into England first, and to have warrant from thence to offer it to this people; the copy whereof I send unto your Lp. enclosed."

The discourse which Davis sent to Bacon has not been preserved with the letter; but being written so near the same time, we may presume that it related to this subject, and was conceived in the same spirit. What Bacon had to say upon the use to be made of the occasion, we shall see hereafter.

A Letter to Mr. Perce, Secretary to the Deputy of Ireland.[1]

Mr. Perce,

I am glad to hear of you as I do, and for my part you shall find me ready to take any occasion to further your credit and preferment, and I dare assure you (though I am no undertaker) to prepare your way with my Lord of Salisbury for any good fortune which may befall you. You teach me to complain of business, whereby I write the more briefly, and yet I am so unjust, as that which I allege for my own excuse I cannot admit for yours. For I must by expecting exact your letters, with this fruit of your sufficiency, as to understand how things pass in that kingdom. And therefore having begun I pray you continue. This is not merely curiosity, for I have ever (I know not by what instinct) wished well to that unpolished part of this crown. And so with my very loving commendations I remain.

To Sir John Davis, His Majesty's Attorney General in Ireland.[2]

Mr. Attorney,

I thank you for your letter, and the discourse you sent of this new accident, as things then appeared. I see manifestly the beginning of better or worse: but me thinketh it is first a tender of the better, and worse followeth but upon refusal or default. I would have been glad to see you here;[3] but I hope occasion reserveth our meeting for a vacation, when we may have

[1] Add. MSS. 5503.

[2] Bacon's Works, edited by Birch, 1763.

[3] "This occurrent . . . doth cross my coming over the next term, by interrupting the business wherein I should have been employed." Letter to Ellesmere, above quoted. The business was no doubt Tyrone's cause, which was to have been heard in London.

more fruit of conference. To requite your proclamation, which, in my judgment, is wisely and seriously penned, I send you another with us, which happened to be in my hands when yours came. I would be glad to hear often from you, and to be advertised how things pass, whereby to have some occasion to think some good thoughts; though I can do little. At the least it will be a continuance in exercise of our friendship, which on my part remaineth increased by that I hear of your service, and the good respects I find towards myself. And so in Tormour's haste,[1] I continue

Your very loving friend,

FR. BACON.

From Gray's-Inn, this 23d of Octob. 1607.

3.

Though the King's bounty flowed much more freely to those about him, where he could see and share the pleasure it gave, than to those who were doing his heavy work in their chambers or in the Courts, yet the working men came in for some of the crumbs. Near the end of a list of "fees granted by his Majesty" before the 5th of August, 1607, I find the following entries:—

"A Baron of the Exchequer increased	113[l] 6[s] 8[d]
"A Judge of the King's Bench increased	188[l] 6[s] 8[d]
"A Judge of the Common Pleas increased	188[l] 6[s] 8[d]
"Sir Francis Bacon	100[l] [2]

But it was one thing to obtain a grant of the money, and another to obtain the money itself. For the King himself must get it before he can give it, and the royallest mind of bounty cannot make it come forth from the place where it is not. The Exchequer not being able to answer all such demands, questions necessarily arose which should be answered first, and these would naturally lead to disputes with the officers. It was probably this grant of £100, or some other grant of the same kind, that led to the "letter of expostulation" which comes next, and which gives us an opportunity of seeing Bacon a little out of temper.

Sir Vincent Skinner was an officer of the receipts of the Exchequer,[3] whose duty, I suppose, it was to pay out of those receipts such

[1] In the 'Remains,' the words "in Tormour's haste" are omitted. "Tormour," I suppose, is a misreading,—but what the word was it seems impossible to guess.

[2] Lansdown MSS. 156. f. 123.

[3] Rymer, xvi. p. 497. See also a letter from him to Sir Julius Cæsar, 25 July 1607. Lansd. MS. 156. f. 116.

sums as were claimed upon due warrant. It seems that some objection had been made to Bacon's claim, but that being referred to the Lord Treasurer it had been overruled in his favour: and when, in spite of this, the payment was still delayed, he thought himself ill-used, and wrote to remonstrate: with what effect I cannot say: the letter itself (which comes from his own collection) containing all I know of the matter.

A Letter of Expostulation to Sir Vincent Skinner.[1]

Sir Vincent Skinner,

I see that by your needless delays this matter is grown to a new question; wherein for the matter itself, if it had been stayed at the beginning by my Lord Treasurer and Mr. Chancellor, I should not so much have stood upon it; for the great and daily travels which I take in his Majesty's service either are rewarded in themselves, in that they are but my duty, or else may deserve a much greater matter. Neither can I think amiss of any man, that in furtherance of the King's benefit moved the doubt, that knew not what warrant you had. But my wrong is, that you having had my Lord Treasurer's and Mr. Chancellor's warrant for payment above a month since, you, I say, making your payments belike upon such differences as are better known to yourself, than agreeable with due respect and his Majesty's service, have delayed it all this time, otherwise than I mought have expected either from our ancient acquaintance, or from that regard which one in your place may own[2] to one in mine. By occasion whereof there ensueth to me a greater inconvenience, that now my name, in sort, must be in question amongst you, as if I were a man likely either to demand that that were unreasonable [or be denied that which is reasonable[3]]: and this must be, because you may pleasure men at pleasure. But this I leave with this; that it is the first matter wherein I had occasion to discern of your friendship, which I see to fall to this; that whereas Mr. Chancellor the last time, in my man's hearing, very honourably said that he would not discontent any in my place, it seems that you have no such caution. But my writing unto you now is to know of you where now the stay is, that I may do that which is

[1] Additional MSS. 5503. f. 18.

[2] "Owne" in MS.; "owe" in 'Remains.'

[3] The words within brackets, which are omitted in the MS., are supplied from the 'Remains,' p. 76.

fit for me without being any more beholding unto you, to whom indeed no man ought to be beholden in these cases in a right course. And so I bid you farewel.

FR. BACON.

24 Dec. 1607.

4.

It must have been about this time that Bacon made acquaintance with a new kind of mortification. His young friend Toby Matthew, for whom he seems to have had a strong personal affection, heightened by sympathy in intellectual pursuits and respect for his judgment and abilities, had left England in April, 1605, to travel in Italy; where, falling into the company of Roman Catholics, and seeing some of the miracles of the Church, he became a convert, was absolved from his heresies, and reconciled. Though he continued to correspond with Bacon while the process of conversion was going on, he does not appear to have consulted him or admitted him into his confidence in that matter. But on his return to England, apparently in the summer of 1607, when his licence to travel expired,[1] Bacon was the first person of note with whom he sought communication. What passed between them we are not told; but the advice he received would probably be that he should lay his case before the Archbishop of Canterbury, as the man who had authority to deal with such cases: and, accordingly, the next thing we hear is that he visited Dr. Bancroft. The result of this visit was, that he was "committed to prison;" by which I understand that he was detained in safe custody —lodged probably in Lambeth Palace, with somebody to keep watch over him—while his case was under consideration. And this was in August, 1607: for I find it stated in a letter from Carleton to Chamberlain, of the 27th of that month, that "Tobie Matthew hath leave to go as often as he will with his keeper to Sir Francis Bacon, and is put in good hope of further liberty."[2]

A letter in Matthew's collection (p. 22), entitled "Sir Francis Bacon to a friend, about reading and giving judgment upon his writings," was no doubt addressed to himself, and belongs probably to this period. It seems that Bacon had been expecting a visit from him, and, being called away on business, wrote to put him off. What the "writing" was, to which it refers, it is impossible to infer from the terms. It may have been the *Cogitata et Visa* in some of its shapes; or it may have been a first sketch of the *In felicem memoriam Eliza-*

[1] "Licence for Tobie Matthew to travel for 3 years." 3rd July, 1604.—Calendar of State Papers. Dom. James I.

[2] S. P. Dom. James I.

bethæ (which we know that Bacon did show to Matthew when he was in England on this occasion), or the *Imago Civilis Julii Cæsaris*, or both.[1] But that which is interesting in it to us is equally interesting upon any of these suppositions.

Sir,

Because you shall not lose your labour this afternoon, which now I must needs spend with my Lord Chancellor, I send my desire to you in this letter, that you will take care not to leave the writing, which I left with you last, with any man, so long as that he may be able to take a copy of it; because first it must be censured by you, and then considered again by me. The thing which I expect most from you is, that you would read it carefully over by yourself; and to make some little note in writing, where you think (to speak like a critic) that I do perhaps *indormiscere;* or where I do *indulgere genio;* or where, in fine, I give any manner of disadvantage to myself. This, *super totam materiam*, you must not fail to note; besides, all such words and phrases as you cannot like; for you know in how high account I have your judgment.

Matthew's case being in the meantime laid before the King, it was thought expedient to offer him "the oath," which the King thought he would not refuse to take. This it seems he could not do: whereupon he was committed to the Fleet prison by the Archbishop, and there visited by various people of various kinds, among the rest by Bishop Andrews,[2] with a view, I suppose, to his reconversion.

It must have been during this imprisonment, which lasted till the 7th of February,[3] that the next letter was written, which comes from the principal collection in Rawley's 'Resuscitatio,' and is the first I have found in that collection which is not also contained in the British Museum MS. (Additional, 5503). It had been printed before in the 'Remains;' but I infer from Rawley's including it among those which profess to come from his "Lordship's Register Book of letters," that a copy had been preserved by Bacon himself.

[1] See Literary and Professional Works, Vol. I. p. 284.

[2] These particulars are derived from a MS. said to be in the collection of Dr. Neligan (Courtmasherry, Co. Cork), entitled "a true historical relation of the Conversion of Sir Tobie Matthew to the Holy Catholic Faith, with the antecedents and consequents thereof:" dated 8 Sept. 1640: or (I should rather say) from a note of the contents of that MS. which was once lent to me, and which unfortunately gives very few dates.

[3] Chamberlain to Carleton, 11th Feb., 1607-8.

To Mr. Matthew, imprisoned for Religion.[1]

Mr. Matthew,

Do not think me forgetful or altered towards you. But if I should say I could do you any good, I should make my power more than it is. I do hear that which I am right sorry for; that you grow more impatient and busy than at first; which maketh me exceedingly fear the issue of that which seemeth not to stand at a stay. I myself am out of doubt, that you have been miserably abused, when you were first seduced; but that which I take in compassion, others may take in severity. I pray God, that understandeth us all better than we understand one another, contain you (even as I hope he will) at the least within the bounds of loyalty to his Majesty, and natural piety towards your country. And I intreat you much, sometimes to meditate upon the extreme effects of superstition in this last Powder Treason; fit to be tabled and pictured in the chambers of meditation, as another hell above the ground: and well justifying the censure of the heathen, that superstition is far worse than atheism; by how much it is less evil to have no opinion of God at all, than such as is impious towards his divine majesty and goodness. Good Mr. Matthew, receive yourself back from these courses of perdition. Willing to have written a great deal more, I continue—

Such power, however, as Bacon had he used, it seems; and with better effect than he had ventured to promise. For I find from the note of the contents of Dr. Neligan's manuscript, that before Matthew was delivered out of the Fleet prison, "Sir Francis Bacon interceded for him." With whom he had used his influence, and how much his intercession had to do with what followed, the note does not say. But of the circumstances and conditions of his liberation we have the following account in a letter from Chamberlain to Carleton, dated 11th Feb. 1607–8:—

"Your friend, Tobie Matthew, was called before the Council-table on Sunday in the afternoon, and, after some schooling, the Earl of Salisbury told him that he was not privy to his imprisonment, which he did no ways approve, as perceiving that so light a punishment would make him rather more proud and perverse. But in conclusion they allotted him six weeks' space to set his affairs in order and depart the realm; and in the meantime willed him to make choice of some friend of good account and well

[1] Rawley's 'Resuscitatio.'

affected, where he may remain. He named Mr. Jones, who has accepted, and is not a little proud of his prisoner."

We shall often hear of him again, for during the whole term of his banishment a correspondence by letter was kept up: and it was in the last year of Bacon's life that he added to his Essays, at Matthew's special request, an Essay on Friendship, in commemoration of an intimacy which had been tried by adversity and prosperity on both sides, and endured to the end without cloud or interruption on either.

5.

Unless Bacon's intercession on behalf of Matthew was made through Salisbury (which there is no reason to suppose), he had not at this time any particular favour to seek or expect at his cousin's hands. He had been made Solicitor-General only half a year before, and there was no prospect at present of any vacancy to which he would have aspired. A letter therefore addressed "to the Earl of Salisbury upon a new year's tide," on the first occasion of the kind "when he stood out of the person of a suitor," must be referred to the 1st of January, 1607–8.

It is difficult to understand the true import of letters of compliment, without an acquaintance (more familiar than, at the distance of three centuries, it is easy to attain) with the fashions of the time in such matters. The style of courtesy is as much a matter of fashion as the style of dress; and forms which in one generation it would be unmannerly to omit, in the next it would be vulgar to use. But comparing this with other letters of Bacon's own on similar occasions, we may gather something as to the peculiar relation which subsisted between the two men. Bacon was two years older than Robert Cecil, and when they were both boys must have seemed his superior: but the position and influence to which the younger of the cousins succeeded so early had long ago altered that, and entitled him to be addressed as the greater man: which Bacon understood perfectly well, and did not fail to remember. But what he did not understand was how far his cousin was really his friend. For Cecil had that frank, easy, unceremonious manner, which, when used as a disguise, is of all disguises the most impenetrable. More than once Bacon had seen reason to think that he was secretly acting against him, and once at least had told him so.[1] But Cecil never allowed himself to take offence about words; and the temper of his answer, if it did not satisfy Bacon, at least disarmed him. Nevertheless, though he continued to study his humours and watch his times, with

[1] See Vol. I. p. 355.

a strong desire to win his confidence, he never succeeded in acquiring any real intimacy. Always on the alert to offer help, always prompt and cordial in acknowledging such favours as he received, always addressing him as a kinsman naturally interested in his fortunes, he never seems to have been on *easy* terms or a clear understanding with him, but to have felt always that he was treading on doubtful ground and must advance with caution. At this time he not only stood for the first time "out of the person of a suitor,"—that is, in a position in which he had not any particular favour to ask or expect,—but he had for the first time received from Salisbury substantial help in his professional advancement. This *might be* the sign of a change of disposition, and if rightly responded to, the beginning of a more cordial intercourse. Might, or might not. And I suppose it was the doubt felt by Bacon on that point which guided him into the peculiar mixture of familiarity and formality which distinguishes this letter: an overture of service and affection, which, if acceptable, might help to bring on the intimacy he desired; if not, might pass for a new year's compliment.[1]

It comes from Bacon's own collection.

A LETTER TO THE EARL OF SALISBURY, OF COURTESY UPON A NEW YEAR TIDE.[2]

It may please your good Lordship,

Having no gift to present you with in any degree proportionable to my mind, I desire nevertheless to take the advantage of a ceremony to express myself to your Lordship; it being the first time I could make the like acknowledgment, when I stood out of the person of a suitor. Wherefore I most humbly pray your Lordship to think of me, that now it hath pleased you, by many effectual and great benefits, to add the assurance and comfort of your love and favour to that precedent disposition which was in me to admire your virtue and merits, I do esteem whatsoever I have or may have in this world but as trash, in comparison of having the honour and happiness to be a near and well accepted kinsman to so rare and worthy a counsellor, governor, and patriot. For having been a studious, if not curious observer,

[1] "Salisbury," said Ben Jonson to Drummond of Hawthornden, "never cared for any man longer than he could make use of him."—B. J.'s Convers. with W. D., edited by D. Laing for Shaksp. Society, 1842, p. 24.

[2] Add. MSS. 5503.

as well of antiquities of virtue as late pieces, I forbear to say to your Lordship what I find and conceive; but to any other I would think to make myself believed. But not to be tedious (in that which may have the shew of a compliment) I can but wish your Lordship many happy years; many more than your father had; even so many more as we may need you more. So I remain.

6.

The exact date of the marriage of Bacon's sister-in-law, Dorothy Barnham, with Sir John Constable, I have not, as I said, been able to ascertain. But among the state papers now at the Rolls House there is one relating to her jointure, which (if correctly referred to January, 1607–8) affords a reason, in the absence of better, for placing the next letter here.

Lady Packington, her mother, had a troublesome temper and a disposition to interfere in the domestic arrangements of her relatives. Her husband himself seems to have had an uneasy time with her. About a year before, we read in one of Chamberlain's letters that "Sir John Packington and his little violent lady are parted upon foul terms."[1] And now it appears that disputes had arisen about Sir John Constable's settlements, in which it may be presumed that she had a hand. The paper to which I have referred is entitled "Conditions to which I am content to yield unto, and did from the beginning intend and offer, for the jointure and advancement of Dorothy Barnham, my spouse," and is signed Jo. Constable.[2] He offers to assure her a jointure of £400 a year, as soon as he comes to his estate; with certain exceptions and provisoes, of which the following is, for our present purpose, the most noticeable:—"But always I understand it, that those her friends which have so intolerably slandered and wronged me, shall have no intermeddling at all either in the assurance or in the allowance of these articles."[3]

Now if we suppose that the mother-in-law was one of the persons so excluded, and that Bacon was one of those selected as trustees (which is most probable, for Sir John was always one of his most valued friends), the following letter (which comes from the 'Remains') will be intelligible enough, to reveal as much perhaps as we have a right to know of that part of his domestic trials.

[1] 13th Feb. 1606–7.

[2] It bears no date. But I gather from it that his grandfather and his father were still alive, and that his wife was under the age of twenty-four.

[3] Domestic James I., vol. xxxi., entered in Calendar "Jan.? 1608."

TO MY LADY PACKINGTON, IN ANSWER OF A MESSAGE BY HER SENT.[1]

Madam,

You shall with right good will be made acquainted with anything which concerneth your daughters, if you bear a mind of love and concord: otherwise you must be content to be a stranger unto us. For I may not be so unwise as to suffer you to be an author or occasion of dissension between your daughters and their husbands, having seen so much misery of that kind in yourself.

And above all things I will turn back your kindness, in which you say you will receive my wife if she be cast off. For it is much more likely we have occasion to receive you being cast off, if you remember what is passed. But it is time to make an end of those follies. And you shall at this time pardon me this one fault of writing to you. For I mean to do it no more till you use me and respect me as you ought. So wishing you better than it seemeth you will draw upon yourself, I rest,

Yours, etc.

7.

Parliament did not meet again in 1608, having been further prorogued upon apprehension or pretence of the "sickness" then prevalent in London;[2] and Bacon's principal public services were performed in the Courts and belong to the professional department.

Of these the most considerable was his argument in the case of the *Postnati*, delivered before the Lord Chancellor and all the Judges, assembled in the Exchequer Chamber. It was a great case, and arose in this way. The proceedings in the last session had left the question of Naturalisation not only unsettled, but subject to a grave doubt in point of law: the Judges having, as advisers of the Upper House, given opinion that the *Postnati* were already *ipso jure* naturalised; while the Lower House had resolved that they were not, and declined to naturalise them by Statute, until other measures had been passed which must necessarily have taken a long time. This doubt affected the rights of all persons born in Scotland within the five years last past, and to be born hereafter; and as neither an extra-judicial declaration of the Judges nor a mere resolution of the

[1] Remains, p. 78.

[2] See Proclamations, 30th Sept. 1607; 10th Jan. 1607–8; 4th Sept. 1608.

House of Commons was competent to settle it, it was a matter of great importance to obtain an authoritative and conclusive decision. To procure this, a grant of lands in England was made to an infant born in Scotland since the King's accession, of which a disseisin having been effected, an action of common law was brought by his guardians to recover possession, together with a suit in Chancery for the discovery of evidence. The decision in both cases turned upon the question whether he were an alien or no; and in both, after hearing, was "adjourned into the Exchequer Chamber, to be argued openly there; first by the Counsel learned of either party, and then by all the Judges of England."[1] Bacon's argument, probably the greatest of his forensic speeches, certainly the most interesting to non-professional readers, appears to have been delivered some time before Easter Term (which began on the 13th of April) 1608; and will be found among the Professional Works.[2]

The result was a judgment in favour of the plaintiff, delivered by the Lord Chancellor and twelve of the Judges,—two only dissenting; a judgment very satisfactory to those who thought with Bacon that there could be no secure union between the two countries without naturalisation, and that the sooner it took place the better; for it settled that part of the question which was most important. The remaining marks of separation might retard the union between the English and Scotch of that generation, but in the next generation they would have disappeared altogether. With those who wanted no such union and apprehended evil to England from this communication of privileges, the decision was of course unpopular; for it imposed upon their children the very state of things which they had refused for themselves, and from which they would have saved their posterity if they could. That this unpopularity was so great and so general as to make it from that time "useless to call upon Parliament to consider any measure connected with the union,"[3] is an imputation upon the patriotism of the Commons of those days which I hope is unjust. But even if the result of the proceeding did involve so grave an inconvenience, it is difficult to see how the Government could have avoided it. To say that a doubtful question of law, involving the private rights of innumerable persons, ought not to have been referred to the highest legal tribunal in the land, is to say that the forms of judicial procedure ought to have been regarded as useless, and the Judges as incompetent for their function. And as it was never suspected that any undue influence was used to limit the freedom of the defence, or to bias the decision, it is

[1] Coke's Reports. [2] Vol. VII. p. 641. [3] Gardiner, i. 323.

strange that in these times, when nobody wishes the decision reversed or regrets the effects of it, any doubt should be felt as to the propriety of the proceeding through which it was obtained. "Never any case," says Coke, "was adjudged in the Exchequer Chamber with greater concordance and less variety of opinion. . . . *Et sic determinata et terminata est ista quæstio.*"

8.

There is another writing of Bacon's which appears to have been composed about this time, and (though its form and the use to which he turned it afterwards caused it to be classed among the literary works) might perhaps with as much propriety have been placed here; for there can be little doubt that it was closely connected with the business of this particular time, and meant to bear upon the solution of the most important state-problem with which the statesmen of the time had to deal.

The day had come when the ordinary revenues of the Crown were no longer adequate to the ordinary requirements of government. And the day was fast coming when it would not be possible any longer to disguise that fact. Now if the King could not carry on the government constitutionally without help from the House of Commons which the House might constitutionally refuse, it followed that the House of Commons had potentially a *veto* upon all the proceedings of the Government. If this be done (they might say), or if that be not done, we shall stop the supplies. The transfer of so great a power to new hands, coming suddenly, and coming (as it probably would) with a struggle, was a revolution which could not be anticipated without serious apprehension: for in a constitution like the English there was no knowing how much disturbance it would cause. The best chance of averting or postponing the discovery would be to engage the country in some action which would carry the sympathies of the people with it. Now the pacific character of James's government was probably up to this time the most unpopular thing about it; and though the time was happily past when

> "To win our ancient right in France again,
> Or die a soldier as he lived a King," [1]

could be approved by sane men as a fit object of royal ambition, yet there were many questions still alive—questions concerning religion, trade, colonization, etc.,—in which the English people would have been proud to see their Government asserting a foremost position

[1] Rich. III. act iii. sc. 1.

among the nations, and an English House of Commons would have heartily supported them. And had Bacon been called into council at this time, he would apparently have advised a bolder foreign policy —a policy aiming, not indeed at direct aggression, but at an assertion of influence and of a right to interfere in the settlement of European questions. The occasion and the manner would of course depend upon the course of events, which could not be foreseen. But the prudence of a general inclination of the national policy in that direction would depend upon the measure of forces, and upon the question whether England had the means of carrying it out successfully. To show that she might safely aspire to such a position, Bacon now commenced an elaborate treatise, to be submitted to the King, upon the conditions of national greatness; tending to prove—and it will not be thought that our subsequent history has discredited his judgment—that England, Scotland, and Ireland, united under one Crown, possessed all those conditions in a higher degree than any of the great monarchies of the world did at the beginning of their career; and that the vision of "a sun rising in the west" was as likely to be verified in Britain as in any other kingdom of Europe. Though this treatise was never finished according to the design (probably because the idea was not taken, and the measures shortly after adopted by Salisbury were at variance and incompatible with it), I do not find that Bacon ever lost his own faith in the opinion which suggested it. As the internal disputes which threatened to divide the kingdom against itself grew more formidable, and external accidents offered chances of taking up the policy which he had indicated, we shall find him now and then recurring to it; and whoever cares to understand how he would have endeavoured to bring about a reconciliation between the conflicting interests of the Crown and the Commons, would do well to turn to his fragment "on the true greatness of Britain,"[1] and read it in connexion with the Parliamentary proceedings of the last session. That it had a real connexion with them, will appear from some remarkable memoranda in the paper which comes next in order of date; a paper to which I have made many references in the preceding volumes, and which is important enough to have a chapter to itself.

[1] Works, Vol. VII. p. 37.

CHAPTER II.

A.D. 1608. JULY. ÆTAT. 48.

1.

To avoid loss of time and opportunity from not remembering things at the moment they were wanted, Bacon appears to have been in the habit of reviewing all his businesses from time to time, and setting down in a note-book or on a sheet of paper whatever he wished to have ready for recollection. These books or sheets he would again from time to time revise, striking out such notes as were obsolete, and transferring the others to a fresh book. Such at least was his plan of action. How early he began, or how regularly and how long he persevered in it, we have no means of knowing. The old books would naturally be destroyed as they were superseded by the new, their contents being presumably of too private and confidential a nature in many parts for other people's reading. One of them, however (probably because it contained among other things notes for a philosophical investigation, which was never finished), was preserved among his papers, and coming into the hands of Archbishop Tenison, found a resting place in his library in St. Martin's-in-the-Fields, where it remained undisturbed and unknown till March, 1848, when I chanced upon it, and recognizing the handwriting, made (by permission of the then librarian, Mr. Hale) a copy for insertion in this collection in the proper time and place; at which I have at last arrived.[1]

The notes being made solely for the help of Bacon's own memory, and evidently not meant to be seen by anybody else, are, as might be expected, in many places unintelligible, and even where a probable meaning may be put upon them, require caution in the interpreting. For most of the names of persons, and many of the principal words, are indicated only by the first letter or syllable, which, though enough for him, may easily mislead us: and where the words are

[1] Upon the sale of that library in 1861, the original was bought by Mr. John Forster, and is now in the British Museum.

written at full length, they are but notes or hints of thoughts as they passed through his mind, unguarded by any of the explanations, cautions, qualifications, etc., of which it was unnecessary to remind himself, though it would have been very necessary to inform a neighbour, had he been addressing himself to a neighbour. Indeed so very private and confidential are they, that a question may perhaps arise whether it be justifiable even now to publish them. There can be no doubt that a literary executor who should publish any similar record left by a man who died within this century would be severely censured, and that too without any reference to the feelings of relations still living, but merely on the ground of justice to the dead.

> "Proclaim the faults he would not show:
> Break lock and seal: betray the trust:
> Keep nothing sacred: 'tis but just
> The many-headed beast should know."

And many people besides the Poet Laureate would join in the censure. Archbishop Tenison, upon whom the trust in this case appears to have devolved, would hardly, I think, have sanctioned the publication of this manuscript; and I do not see that the distance of time so alters the case, but that the reasons against it, if good then, would be good still. Nevertheless, the piety of friends endeavouring to keep men's faults out of sight proves often injurious to their reputation in the end. Their acts remain, and to suppose that mankind will construe them in a sense more favourable than the truth would have suggested, is a rash assumption. If Bacon himself could have foreseen what "the next ages" were going to think of him, he would probably have much preferred that they should know the whole truth, even where it was least favourable. And therefore though I am aware that a general account of this manuscript, giving full extracts of the more interesting parts, and passing by what is trivial or obscure, might be made more agreeable and entertaining, I have resolved to print the whole of it as exactly as I can.

To guard against the misreading of abbreviated words I print it *literatim*, confining conjectural interpretations to the foot-notes. To guard against false inferences from abbreviated thoughts, I must be content with offering a few general considerations.

I am not going to urge the duty of judging favourably or charitably, or of giving the benefit of doubts to the party interested; for Bacon's interest in what men thought of him expired 240 years ago, and the only interest that any man now living or any that shall be born hereafter can have in the matter is to understand and believe what is true. But in order to understand rightly the notices con-

tained in such a record as this, it is necessary to remember that the things of which a man needs to remind *himself* are those which he is himself apt to forget. The man who most needs to caution himself against being overreached in a bargain or taken in by an impostor, has least occasion to remind himself of the duty of fair dealing or charity. The man who is naturally liberal and not naturally covetous will have to urge upon himself the duty of getting money, but not of bestowing it upon unselfish objects. When a man says to himself "I must be patient," the inference is that patience is *not* the virtue in which he most abounds. When he says "I must endure this no longer," the inference is that he is disposed to endure too much. When we find Bacon resolving in soliloquy to "suppress his speaking with panting and straining of the voice and breath," to make a point of "composing and drawing himself in" when he begins to speak, and "not to fall too suddenly upon the main," we learn that his natural manner was to speak eagerly and impetuously, and run himself out of breath, and to proceed at once without circumlocution to the heart of his subject. When we find him reminding himself to assume (or perhaps only raising within himself the question whether he shall assume) "greater confidence and authority in discourses of this nature" [that is on philosophical subjects], "*tanquam sui certus et de alto despiciens*," we may be sure that such a tone of confidence and authority was not natural to him. When we find him in his 48th year, and having been a courtier from his boyhood, borrowing a lesson in the courtier's art from so inferior a man as Sir Henry Hobart,[1] we may presume that it was not an art which he had himself been studying for the last twenty years with the zeal of a man whose heart was in it. So, again, when we see a page of suggestions concerning the means of husbanding and improving his property, if we should infer that he was a diligent manager of his own money, we should certainly be wrong: we have abundant evidence that both early and late in life he was negligent in such matters to a fault. This book only shows that he was aware of the fault, and made some endeavours more or less effectual to correct it. And though we have not evidence equally conclusive that he was by nature disinclined to the arts and appliances by which men win the favour of the great and rise in the world, or that he was apt to neglect them more than his judgment approved, the many memoranda which will be found here of things to be done and cautions to be observed with a view to political advancement are subject to the same observation. Hitherto if he had been an assiduous student of such arts, he had certainly not been a successful one. And my own impression is that they

[1] See p. 93.

were naturally distasteful to him, and that though he thought it right to practise them, he had to work against the grain in doing it.

Nor is it to be forgotten that the same action is regarded (and justly regarded) with very different feelings according to the end which it is meant to serve; and as a man does not want to remind *himself* of the end which at the very time he is looking about for means to attain, his note-book (if really addressed to himself) will say nothing of that; though sometimes it may be easily and safely conjectured. When we find Bacon proposing to himself (with a view to the interests of the *Instauratio Magna*,—which in his idea were the interests of the human race in the largest sense), circuitous methods of "gaining entrance into the inner of some great persons,"—we easily excuse the condescension which is submitted to for such an object. When we find him proposing to himself methods of the same kind with a view to his own advancement in fortune and position, can we be certain that he is not there also entitled to a similar excuse? He had a deep interest in the welfare of England. He had many abilities and accomplishments which would have enabled him to promote it. He saw many errors committed which he could have prevented if he had had weight enough in her councils. Influence depended upon position, and position could only be got by the favour of the great. In studying the likeliest means to procure that favour, it is quite conceivable that he was really aiming at the patriotic ends which lay beyond. But those ends being familiar to him and always present to his mind, it would have been waste of time and paper to make a note of them for the help of his own memory.

These general considerations being premised, I may leave the note-book to tell its own story. Of its authenticity there can be no question, being written throughout in his own hand. It appears to have been the work of seven consecutive days (Saturday omitted) at the beginning of the long vacation of 1608; the first page being dated July 25, and the last (except a page or two added afterwards) July 31. The occasion which led him at this time to take so complete a survey of all his affairs was probably the falling in of a considerable addition to his fortune. On Saturday, July 16, 1608, William Mylle, Clerk of the Star Chamber, died, and Bacon, who had held the reversion since October, 1589, was sworn in the same day.[1] He reckoned the place as worth £2000 a year. This, added to the profit derived from his Solicitorship and his wife's fortune (both accessions of the year before), trebled his income, and made it a fit time to settle his arrangements for the future in accordance with his increased means. As the pages all bear a running title of *Transportata*, that is, notes

[1] Egerton Papers (Camd. Soc.), p. 427.

transferred from a former note-book, I suppose that he had looked through all the memoranda of this kind that he had by him, and gathered whatever he judged worth keeping into this volume. He would probably alter and add while he transcribed, as well as omit; and therefore, though many of the notes may have been of older date, we cannot distinguish the old from the new, and must treat them generally as belonging to this period. He calls the collection *Commentarius solutus*, which may be translated a book of loose notes: and describes it as "like a merchant's waste-book; where to enter all manner of remembrance of matter, form, business, study, touching myself, service, others; either sparsim or in schedules, without any manner of restraint; only this to be divided into 2 books: The one *transportata ex commentario vetere*, containing all manner notes already taken in several paper books fit to be retained (except it be such as are reduced to some more perfect form); The other *Commentarius novus*." What we have here belongs to the first book only. Of the other I have not found any traces anywhere.

He appears to have devoted the first day to the setting down of everything he could think of for the husbanding of his income, the improvement of his fortunes, and the arrangement of his business; how to have command of ready money in case he wanted it; how to maintain and increase his credit with the King and the Earl of Salisbury (now Lord Treasurer) by acceptable service; what subjects to attend to, what advices to offer, what cases to be prepared in; how to increase his practice, and draw business to his own office; what suits to move for himself, and how to give evidence of his superiority to competitors in diligence, zeal, and capacity; how to improve his personal acquaintance with the King and the great councillors, and especially how to make himself useful and agreeable to Salisbury; what arrangements to make for the better administration of his new office, and how to meet anticipated objections; what preparations to make for the next Parliament; what measures to take for the improvement of his lands and leases, and for the regulation of his household; what houses to think of for his dwelling, (being now in want of a dwelling-place in the neighbourhood of London, fitter for his new condition than his chambers in Gray's Inn), and other matters of the same kind. After which he proceeds to review the contents of his cabinet, and reconsider the distribution and order of his various books and papers; namely, 5 books of compositions, 4 of notes relating to the same, 9 on matters connected with his profession, 4 on matters connected with his office, 5 relating to his personal affairs. And this appears to have been his first day's work, Monday,—25 July.

On Tuesday, after suggesting to himself a more convenient ar-

rangement of some of his note-books, he turns his attention to the fortunes of the Great Instauration; but this also in the way of business and management. The great object being to get help of able and influential persons in the furtherance of the work, he begins by considering who are likely to take an interest in it, and how they may be attracted. The King he had already appealed to in the 'Advancement of Learning,' and as there is no allusion to him here in connexion with it, I suppose he had satisfied himself that there was no hope of effectual help from that quarter. The Prince was still a boy, but something might perhaps be made of him in due time. Now Sir David Murray was keeper of his privy purse, and Sir Thomas Chaloner had the charge of his person and household. Sir Thomas was an old acquaintance of Bacon's own, and though he does not appear to have known Sir David, he knew a man of the name of Russell who "depended upon him,"—a man skilled in distillations, separations, and 'mineral trials,' who, if he could be interested in the cause, might be a means of interesting the others. Then there was Sir Walter Ralegh, whose activity, confined within the walls of the Tower, found exercise in experiments of chemistry; and along with him the Earl of Northumberland, a professed patron of learning; both of them intimately connected with Thomas Harriot, the great mathematician: valuable allies all, if they could be procured. Who else? The men whose profession brought them most into contact with natural science were the physicians; though for the most part they kept the beaten way, and stood by the received rules of their art. William Harvey, a young man of thirty, had been elected the year before a fellow of the College of Physicians, and was rising into distinction. But the great discovery which has made his name so famous was of much later date, and if Bacon was acquainted with him at this time, of which I find no evidence, he could not hope for much help or sympathy from so orthodox an Aristotelian. The likeliest he could think of that day were Paddy and Hammond, the Court physicians, whose names will perhaps be remembered hereafter in connexion with that note; though I do not find that anything came of it. Meantime Russell (the man of distillations and separations already mentioned) and Poe (who was Salisbury's physician) might help him with collections of experiments in their art, and (being judiciously cultivated) with information as to the tastes of such great persons as they attended. Then for men of general learning, there was the Archbishop of Canterbury,—"single," therefore a man whose means were available for public objects; "glorious," therefore one who might be attracted by the greatness of the enterprise, and "believing the sense," that is (I suppose)

willing to learn from nature and experience as well as from the schools. Could any impression be made upon him? Bishop Andrews had already shown himself interested in Bacon's general speculations, and was to some extent, it seems, a believer in experiment. He had wealth to bestow, and being single might bestow it on mankind; was obviously, therefore, a man to be engaged if possible in the great work. "Learned men beyond seas" were also to be thought of, but no name is suggested. Nor does he appear to have been able to think of any one else in particular, upon whom he could count as yet for effectual assistance by wit or purse or power or sympathy, unless it were his own nephew Edmund Bacon, eldest son of his half-brother Sir Nicholas, who seems to have shown a taste for science, and whose acquaintance he begins by reminding himself to cultivate.

So far, the prospect did not seem very encouraging. The bell he had rung "to call other wits together" had attracted but a small company. Yet the work, though it might be designed by one man, could not be accomplished, nor even materially advanced, without the co-operation of many; and means must be thought of to find them, and draw them in. This was to be done in two ways: one, by appealing to men's reason and imagination through a general exposition of the grounds of hope, and a general indication of the results that might be hoped for; the other, by exhibiting (if possible) a sample of the work itself, in some one positive and substantial discovery, made out by patiently following the true method of inquiry through all its processes to its legitimate conclusion.

With a view to the first of these, he had already composed his *Cogitata et Visa*, which traverses all the ground, and he must think of the fittest persons to whom he should "impart" them. Upon which thought follows a page of notes for points to be remembered in treating that argument, and queries as to the best way of setting it forth; in which it is easy to trace the germ of several subsequent writings, which, passing through various intermediate forms, developed at last into the first book of the Novum Organum. But the *Cogitata et Visa* was designed to be an introduction to a specimen of the true method *applied*, and resulting in some "axiom;" and for this purpose he had selected three special subjects of investigation: Motion, Heat and Cold, and Sound. The appearance of vibration perceptible in the common actions of heat and sound had probably suggested to him that they were modes of motion; and that if we could thoroughly understand the nature of motion itself we should have the master-key to all such mysteries. Of these three subjects he had begun to make what he called "tables;" that is, collections of phenomena classified according to his idea of the

true method—the *filum Labyrinthi.* And it would be well to postpone his attempt to draw in the Bishops till one or other of these were "in some forwardness."

But this was only for an example of the way in which the work must be done—the way in which the materials when gathered must be used. How to procure help towards the *collection* of the materials was to be thought of. Two portions, as of most value for his purposes, appear to have been uppermost in his mind that day: 1st, a history of marvels, that is of nature erring or varying from her usual course—for "from the wonders of nature is the nearest passage and intelligence towards the wonders of art," and "it is no more but by following, and as it were hounding, nature in her wanderings, to be able to lead her back to the same place again;"[1] and 2nd, a history of the observations and experiments of all mechanical arts: for "like as a man's disposition is never well known till it be crossed, nor Proteus ever changed shapes till he was straitened and held fast, so the passages and variations of nature cannot appear so fully in the liberty of nature as in the trials and vexations of art."[2] But how were such histories to be obtained? Not without "command of wits and pens." Could he himself get transferred to some office which would give it? Some office of authority, for instance, in some place devoted to learning. And then he thought of Westminster, Eton, Winchester, Trinity or St. John's in Cambridge, Magdalen in Oxford; and of bespeaking some appointment of the kind betimes, with the King and the chancellors of the two universities—namely Archbishop Bancroft and Salisbury. Could he in the meantime, by his personal authority, awaken a hope and zeal in that direction, inspiring confidence in others by assuming it himself,—like a prophet who comes in his own name? Could he do anything with the young scholars in the universities? for "it must be the *post nati,*" and not the grown-up generation, from whom his help should come. How if pensions could be assigned to a certain number of persons, that they might devote themselves to the work? or how if a college could be erected for the special study of the art of invention?—a college furnished with all the requisite appliances, books, engines, vaults, furnaces, terraces, workshops, allowances for travelling and experiments, arrangements for intelligence and correspondence with the universities abroad, orders and regulations ("mixed with some points popular, to invite many to contribute and join"), honours and rewards to excite ambition,—as, for instance, galleries "with statues of inventors past, and spaces or bases for inventors to come,"—waiting for the deserver;—a rudiment, in short, of Solomon's House?

[1] Adv. of Learn., Philos. Works, vol. iii. p. 331. [2] Id. ib.

But all these things depended on co-operation, and the immediate business was to get on with that part of the work which one man could do. And then he proceeded to set down the scheme of a complete investigation,—*Inquisitio legitima.* "*Inquisitio legitima de Motu,*" he had written first; but thinking it better to begin with the plan of a true enquiry in general,—the general form to be used in all enquiries alike,—he struck out *de Motu*, and finished his day's work with a list set out in order, of the titles of the several sections and articles into which such an enquiry distributed itself.

On Wednesday he addresses himself to the particular subject of Motion, and sets down all the heads of enquiry he can think of; which fill eleven pages of the manuscript; a curious piece of labour, and interesting as a specimen of his manner of proceeding at that time in such investigations, and as an evidence of the hopefulness of his nature, which could look without despair upon the problem which presented itself; but otherwise, I suppose, not now of any value.

Having thus devoted Monday to his own fortunes, Tuesday and Wednesday to the fortunes of the human race, he turns on Thursday to the consideration of the fortunes of his country. Among the subjects which he had noted on the first day as to be borne in mind in corresponding with Salisbury, one was (if I have interpreted the abbreviated words rightly) the twofold policy to be pursued in regard to "empty coffers and alienation of the people"—how to find means to replenish the exchequer without entering on courses which would excite popular odium. And this appears to have been the subject of his meditation on Thursday morning. It was, no doubt, the Sphinx's riddle of the day, upon the solution of which followed sovereignty, upon the failure to solve it civil war. His meditations took the form of notes for some memorial of advice, but of so private and confidential a nature that he seems to have been unwilling to confide it even to his private note-book. For whereas the notes of the last day and the day before, though short, are written so as to be intelligible to anybody, the notes for this political memorial or meditation or whatever it was to be, are set down so obscurely that their import can only be guessed at here and there, and I suppose nobody but himself could have supplied a full interpretation. Thus much, however, may be collected from them, that the problem he was considering was how best to avoid the danger which threatened the Crown from the poverty of the exchequer; and that the particular danger which he apprehended was a revolt in Scotland. He then proceeds to note "the greatness of some particular subjects" or bodies, including the Privy Council, the Lower House in Parliament, and the nobility of Scotland; but whether as elements of the danger,

or resources for encountering it, does not clearly appear. He thinks of the office of Lieutenant-Constable, in connexion apparently with the possible "absence of the Prince, if he come to the Crown, by wars." He speculates upon "confederacy and more strait amity with the Low Countries," with an aim, I imagine, to prepare for a bolder and more active foreign policy. Then he turns to internal reforms: the "limitation of jurisdictions," with a view, no doubt, to quiet the disputes between the several courts of justice, which in this season of peace were disturbing the tranquillity of the country; the compounding and collection of new laws; the "restoration of the Church to the true limits of authority since Henry 8th's confusion;" all measures fit to occupy the attention of Parliament, and divert it from the struggle with the Crown for power. It seems also as if he had thought of recommending some abatement of the pretensions of the Crown itself, and inspiring the King with an ambition to seek his greatness in establishing a more popular form of government; for he speaks of "books in commendation of monarchy mixed, or aristocracy," and of "persuading the King in glory, *Aurea condet sæcula.*" Then follows something about the choice of fit persons to be assured, something which I think must refer to an aspiration he had conceived of succeeding himself to Salisbury's late office of secretary; and something about winning Salisbury "to the point of policy"—meaning, probably, the policy for avoiding popular disaffection: ("*Surdis modis*," he adds, "*cave aliter.*") But the meditation concludes with a memorandum to "finish his treatise of the greatness of Britain, with aspect. ad Pol." (which means, I suppose, with reference to the policy which the time required), and with the two following notes, which seem to explain intelligibly enough what that policy was. The letters within brackets are inserted by conjecture.

"The fairest, without dis[order] or per[il] is the gener[al] persuad[ing] to K. and peop[le] and course of infusing everywhere the foundat[ion] in this Isle of a Mon[archy] in the West, as an apt seat, state, people for it. So civilizing Ireland, furder coloniz[ing] the wild of Scotl[and], Annexing the Low Countries.

"If anything be questio[ned] touch[ing] Pol[icy] to be turned upon the ampliation of a mon[archy] in the Royalty."

The best way, in short, to avoid the danger of popular discontent, concurring with dependence of the Crown upon popular support, was for the Crown to put itself at the head of some movement which should carry the sympathy and ambition of the people along with it. The wars with Spain in Elizabeth's time, and the bountiful loyalty which rushed to James's assistance upon the discovery of the Gunpowder Plot, had proved how rapidly distastes and disputes could

be forgotten under the excitement of a common passion; and a few years more showed, in the ready opening of the national purse upon the promise of a war for the recovery of the Palatinate, that even when the disease had advanced much further the efficacy of that remedy might still be trusted.

Having concluded his meditations upon the political difficulty, he appears to have rested for a while. Returning presently to his work, and having first set down a few "forms," as he called them—thoughts neatly expressed, which had, perhaps, occurred to him in the interval—and a few memoranda concerning his business and the improvement of his fortunes, similar to those which occupied him on Monday, he turns to the condition of his own dwelling at Gorhambury, which since his father's death had been allowed, owing to his brother's long absence and absorbing occupations and want of more than all his money for other things, to fall out of repair. Having now a fair prospect of an ample income, he could afford to commence the trimming of his grounds according to his taste; and he begins with "directions for a plot to turn the pond-yard into a place of pleasure," by enclosing and laying it out in broad walks and terraces, with banks and borders set with choice trees and flowers, and a lake in the middle with several islands in it, variously furnished and adorned for rest, exercise, and refreshment, and pleasure of eye, ear, smell, taste, and spirits. The design (which I need not more particularly describe, as the whole is written out without any abbreviations or obscurities, and in minute detail) appears to have been, in part at least, carried out; for it was in the neighbourhood and view of these ponds that he afterwards built Verulam House, his favourite residence for summer.

After a few more memoranda of improvements to be made or thought of, which (with one exception to be noticed afterwards) I need not particularize, he proceeds to *Memoriæ Valetudinis*,—remembrances and observations concerning his own health: a curious and minute record of a contest with indigestion, and of the effects of it, bodily and mental. These also are written out quite fully and intelligibly, and may be read in the original without help. To medical men they may probably be interesting as a record of symptoms according to the patient's own interpretation of his own sensations, and as revealing, through the better light of modern science, the real state of Bacon's case and constitution. Unprofessional readers will be content with inferring that he suffered much from what we now call dyspepsia, accompanied with a very sensitive nervous system, through which it affected the imagination. Knowing to what the disturbance was due, he did not yield to the delusion; but the disorder to which he

continually refers under the name of "his symptom," is described as "melancholy," "doubt of present peril," "strangeness in beholding and darksomeness," "inclination to superstition," "cloudiness," etc.; and must I think have been an affection of the same kind as that from which Sir Walter Scott, after his great troubles came upon him, suffered occasionally. The resemblance of the description in the two cases is indeed in some respects so striking, that it may be worth while to place them side by side.

"I have hinted in these notes" (writes Scott in his Diary, March 13, 1826) "that I am not entirely free from a sort of gloomy fits, with a fluttering of the heart and depression of spirits, just as if I knew not what was going to befall me. I can sometimes resist this successfully, but it is better to evade than combat it." Again, on the 14th, "What a detestable feeling this fluttering of the heart is! I know that it is nothing organic and that it is entirely nervous; but the sickening effects of it are dispiriting to a degree. Is it the body that brings it to the mind, or the mind that inflicts upon the body?" .... And again, later in the same day apparently, "It was the fiddle, after all, was out of order, not the fiddlestick. I walked out. .... Since I had scarce stirred to take exercise for four or five days, no wonder I had the mulligrubs. It is an awful sensation though, and would have made an enthusiast of me if I had indulged my imagination on devotional subjects. I have been always careful to place my mind in the most tranquil posture which it can assume during my private exercises of devotion."[1]

Though Bacon does not mention any "fluttering of the heart," the effect on the mind and spirits, the "inclination to superstition, and doubt of present peril," seems to have been the same. But in one respect there is a singular and unexpected contrast between the cases. The attack which led Scott to mention it came upon him when he was surrounded with melancholy circumstances,—his fortune going backward, his wife dying, his preparations for removal from Abbotsford; whereas it was upon the *amendment* of his fortune that Bacon seems chiefly to have experienced these sensations. "I have found" (he writes) "now twice upon amendment of my fortune disposition to melancholy and distaste, especially the same happening against the long vacation when company failed and business both; for upon my solicitor's place, I grew indisposed and inclined to superstition. Now, upon Mill's place, I find a relapse unto my old symptom, as I was wont to have it many years ago, as after sleeps, strife at meats, strangeness, clouds," etc.

[1] Life of Scott, vol. vi. p. 261.

I am not sure that I know what he means by "after sleeps," but there is another note concerning a habit of sleeping out of season, which affords a striking illustration (though few people, I suppose, will think it a strange one) of the tyranny of the body over the mind, even where the desire to resist it is unquestionably sincere. "I do find (he says) nothing to induce stopping more, and to fill the head and to induce languishing and distaste and feverous disposition, more I say then any manner of offer to sleep at afternoon, either immediately after dinner or at four of clock. And I could never yet find resolution and strength in myself to inhibit it."[1]

The *memoriæ valetudinis* being finished, he proceeds— still on the same day—to draw up a complete inventory of his property, real and personal, with all particulars,—lands, woods, houses, fees, offices, plate and jewels, debts, expectations,—everything; each item separately valued by estimate or by actual return, both as to its present selling value and as to its annual proceeds. At the end of the account he finds his property of all kinds worth ("as *in pretio* to be sold") £24,155, and in annual revenue £4975. To be set off against which, he further finds that his debts of all kinds amount to £4481, of which those bearing interest rise to £2925. The rate of interest is not stated, nor is any estimate set down of the annual charge with which his income was burdened on that account. But at 10 per cent. it would be a little under £300.

Having thus made out the present state of his property as exactly as he could,[2] he returns once more to politics and business. One of the first memoranda which he had set down on the 25th, was the "being prepared in the matter of prohibitions,"—which was a dispute of considerable constitutional importance between the Courts at Westminster and the Provincial Councils in Wales and the North, as to their several jurisdiction. On this subject, and some others, especially the course to be taken with Papists and Recusants, the King had held a special conference with some of the judges as long ago as the 15th of February, 1607–8; of the effect of which Bacon (who attended no doubt as Solicitor-General and one of the Learned Counsel) had made a note at the time. This note he now transcribes at length, and as the report of a more than ordinarily competent eye-witness on matters which history still discusses with eager interest, it has a historical value. Being set down however so fully as to be quite intelligible, and yet so succinctly that the sub-

[1] Sir W. Scott also mentions in his Diary the falling asleep for a few minutes in his chair, as a habit which grows upon him more than he could wish.

[2] The making up of these accounts was not quite finished on Thursday night, and the last three pages, which complete the list of debts still undischarged, are dated July 29.

stance cannot be given in fewer words, I need do no more here than recommend it to the reader's notice.

After this follow some notes of the same kind as those with which he occupied himself on Monday: remembrances of points to be observed in his course of official service, with a view not only to get the work effectually done, but to make it show to the best advantage, and recommend him personally to favour and advancement. These are likewise for the most part set down with tolerable fulness; and being collected into a few pages under a conspicuous title,—"*Custumæ aptæ ad individuum*,"—and relating to personal matters in which most people find amusement, they will no doubt receive their full share of attention. The danger is that they may receive rather more and more exclusive attention than properly belongs to them, and so leave a false impression, not so much of the nature of the thing, as of the quantity of it in proportion to the rest; and therefore it is the more necessary to understand clearly what the thing itself really is, and what inferences we are justified in drawing from the occurrence of such memoranda in a note-book. To infer from them a natural aptitude and inclination in the writer to do the things which they remind him to do, would, in my opinion (as I have already observed), be wrong. Men make notes of things to be done, which, without a reminder, they would be in danger of forgetting to think of. But though not implying a natural propensity, they do no doubt imply a deliberate intention to do those things, and a conclusion of the judgment that it is fit, under the circumstances, that they should be done. Now, upon some of the practices which Bacon here suggests and prescribes to himself, a question may be justly raised how far such an intention is consistent with a sound morality. And though my office is to report facts and not to deliver censures, and I prefer for my own part to postpone judgment until the case is all before me, it may be well perhaps to interpose a caution or two for the consideration of those who cannot wait so long.

It must not be forgotten then, that we see here not only thoughts and intentions half formed and imperfectly explained, but we see the seamy side of them, which in other cases is kept out of view. Bacon liked to call things by their true names; and if he ever thought fit to deceive his neighbour, did not think fit to deceive himself by disguising the real nature of the act under a euphemism. Now, most of the little arts of social intercourse which are practised generally and with general approbation under the gracious names of tact, good breeding, and the like, are in fact modes of concealing truth or conveying falsehood. A man who pretends to be listening with earnest interest to a story which does not interest him at all,

and to which he is in fact not listening, means no doubt to deceive the story-teller. A man who affects to be sorry that he cannot do a thing which he is at the very time delighted to find a plausible excuse for refusing to do, means no doubt to deceive the proposer. The intercourse of a civilized man with those whom he wishes to stand well with is rarely free from acts, deliberately intended and executed, which cannot be truly described without epithets which no man likes to hear applied to any acts of his own. The consequence is that they never, or very rarely, *are* truly described. When such things are done purely for the sake of others—to avoid giving others pain—they are not called or thought wrong at all, but counted among the minor virtues. Even when done for a man's own benefit, if it be for an end which is itself fair and reputable and unattainable otherwise,—such as a seat in the House of Commons,—they are at least freely allowed: a man is not thought worse of for being known to have done such things, and probably would be thought worse of, at least by one party, if he lost his election through a conscientious determination to abstain from them,—a conscientious determination, for instance, to exhibit in his canvass or on the hustings no emotion which he did not feel. But in all these cases society makes a compromise between its interests and its principles by looking only at the outside of the transaction and ignoring its true name and real nature. If, therefore, we are to make a just comparison between Bacon's morality and other men's or our own, we must do one of two things. We must either look only at the outward face of *his* actions, without reference to the true names which he gave them in his note-book, or we must supply the true names of our own and not look at the outward face only. It does not much matter which we do; and upon a comparison made either way, I doubt whether it will appear from any evidence supplied by this book that in such matters he permitted himself a greater licence in practice than is still the fashion among respectable men of business, or than he was himself in theory prepared to avow and justify. His theory he has himself explained in a book which was meant to last and bear witness. Speaking in the 'Advancement of Learning' of certain courses imputed to some learned men which he admits to be "base and unworthy," he makes a special reservation in favour of one class, and into that class the practices revealed in these notes which will probably be selected as most questionable will be found to fall.

"Not (he says) that I can tax or condemn the morigeration or application of learned men to men in fortune. For the answer was good that Diogenes made to one that asked him in mockery *How it came to pass that philosophers were the followers of rich men, and not*

rich men of philosophers? He answered soberly and yet sharply, *Because the one sort knew what they had need of and the other did not.* And of the like nature was the answer which Aristippus made, when, having a petition to Dionysius and no ear given to him, he fell down at his feet, whereupon Dionysius staid and gave him the hearing and granted it; and afterward some person tender on the behalf of philosophy reproved Aristippus that he would offer the profession of philosophy such an indignity as for a private suit to fall at a tyrant's feet: but he answered *That it was not his fault, but it was the fault of Dionysius, that had his ears in his feet.* Neither was it accounted weakness, but discretion, in him that would not dispute his best with Adrianus Cæsar; excusing himself, *That it was reason to yield to him that commanded thirty legions.* These and the like applications and stooping to points of necessity and convenience cannot be disallowed; for though they may have some outward baseness, yet in a judgment truly made they are to be accounted submissions to the occasion, and not to the person."

The notes which implicate Bacon himself in this kind of "morigeration," though if collected and set out by themselves they would make a considerable show, are so few in proportion to the whole that in seeking for illustrations it is not easy to light upon them. But here is one which will answer the purpose as well, perhaps, as any. I may assume, I suppose, that there is no immorality in a Solicitor-General wishing to become Lord Chancellor. The choice of his Lord Chancellor lay in those days with the King, and the King's choice would naturally be influenced by the opinions and wishes of those about him. The Earl of Suffolk was Lord Chamberlain of the Household, and a man considerable enough to be selected a few years after for Lord Treasurer. There was no great harm in wishing to be the man whom the Earl of Suffolk would recommend, and if he shared the common infirmity of thinking highly of those who thought highly of him, a Solicitor-General would, under those circumstances, naturally wish to show him as much respect as he could. I have not met with any letter or speech or anecdote which represents the manner in which Bacon was in the habit of expressing his respect to this Earl, nor do I remember to have met with any which represents the manner in which he was addressed by Coke or Doderidge or Hobart. But if anything of the kind should turn up, I should expect to find it conceived in a spirit of great respect and deference. Such would be the outward face of a transaction which would scarcely be censured as unbecoming, even by those who did *not* believe that the Earl deserved all the deference that was expressed. And yet if we were permitted to look behind and see the seamy side, we should

probably find that it proceeded rather from a desire to make him believe that he was an object of reverence than from any genuine overflow of that emotion,—a desire, in fact, as Bacon frankly expresses it in his private meditation, to "make him think how he should be reverenced by a Ld. Ch^r, if I were." Such would be the same transaction seen from within; a transaction which Bacon would have excused as "a submission to the occasion," and which (whether excused or not) is one of a very numerous family, still flourishing in all departments of civilized society. I do not myself, however, recommend it for imitation; and if it be true that no man can be known to do such a thing in these days without forfeiting his reputation for veracity,—I am glad to hear it.

After this it is needless to say anything about devices for drawing the great councillors into private conversation in public places, and for making conspicuous his own care and diligence in his service and profession; these being merely arts of politic ostentation, involving no breach of any moral law. But there are one or two other passages that are likely to catch careless eyes, and to be alleged in support of a charge in the opposite direction,—a charge of saying, not what he did *not* think, but what he did think; and upon them I wish to say a few words.

In my account of the subjects of his meditation on Monday I mentioned the giving evidence of his superiority to competitors in diligence, zeal, and capacity. The note I was more particularly thinking of was one which begins, "To have in mind and use the Attorney's weaknesses," and proceeds to enumerate various cases which Bacon thought the Attorney-General had mismanaged, and certain qualities in which he found him deficient. To this subject he recurs on the 29th in a note headed "Hubbard's disadvantage," in which the criticism is repeated with additions and improvements, and hints are set down for a very lively and I have no doubt a very true description of the man. Now, an unfavourable opinion of one artist delivered or conceived by another artist in the same line is, for some reason or other, always accounted an offence and a transgression. In that relation, to speak the truth seems to be considered wrong. Though an artist in the same line is, of all other men, the best qualified to see, and the least capable of overlooking, the defects of an artist's work, he is the one man who is forbidden to take notice of any defect in it whatever; and criticisms upon an Attorney-General, which in any other mouth would be thought just, sagacious, and discriminating, coming from the mouth of a Solicitor-General, must expect no better name than detraction. But though I am prepared to hear the censure, I am not prepared to admit the justice

of it. Bacon had served with Sir Henry Hobart in Council and in Parliament for more than two years. He had been familiar with the business of a law-officer of the Crown for nearly twenty. No man had had better opportunities of knowing what an Attorney-General ought to be and what Hobart was: and if he thought he did his work badly, I cannot see what should have forbidden him to say so, —especially being ready at any moment not only to show how it might be done better, but to take it in hand and do it. Of the external action, however, in which these private meditations issued,— of the use he actually made of the list of weaknesses which he had collected,—no record remains. All we know is that he succeeded six years after in getting Sir H. Hobart transferred to a place of higher dignity for which he thought him less unfit; which was so far well, and would have been better if it had been sooner.

Another note which, though very short in itself, and the interpretation very doubtful, is pretty sure to be seen and interpreted, will probably suggest an imputation of another kind: and as it is one from which Bacon's reputation has not hitherto suffered, it is worth while to inquire concerning this also, how much it comes to. The old Lord Treasurer Dorset had died suddenly at the council-table about three months before; and there are two memoranda in this note-book relating to his widow. The first is merely to send her "a message of compliment;" and being entered in company with religious reflexions suited for consolation upon the death of the old and eminent, would not by itself be taken to indicate anything more than a proper attention to an old lady who had lost her husband, and with whom he was probably more or less acquainted. But when, two days after, we find another memorandum in these words, "Applying myself to be inward with my Lady Dorset, per Champners; *ad utilit. testam.*," we cannot avoid the inference that among his motives for desiring to improve his acquaintance with her, one was the hope of influencing in some way the disposal of her property after her death; and the question is how much we are to infer from that. In *what* way,— with a view to "utility" in what sense,—he wished to use his influence, we are left to conjecture. That he was thinking of a legacy for himself,—unless we suppose, what is not probable, that he stood in some relation to her which gave him a right to expect it,—though it is the interpretation of the words which will occur to everybody at first, will seem, I think, less likely the more it is considered. Had he been *already* "inward"—that is, intimate—with Lady Dorset, he might perhaps have been suspected upon this evidence of a design to improve the intimacy for his own benefit; though we have no other evidence that he ever either sought or received any legacy from

anybody, except his father. But to apply himself, through the mediation of another person, to *become* intimate with a lady who cannot have been less than seventy years old, in the hope of obtaining a legacy for which he could allege no ostensible claim on the ground of kindred, service, custom, or humanity, seems to me an enterprise too unpromising to be so much as thought of: it was so very late in the day to start. Nor is it at all necessary to suppose that the "utility" intended was of this kind. Bequests for objects of general beneficence were the fashion of that time. Whenever money is to be left, there are better and worse ways of disposing of it; and Bacon may have wished to guide the beneficence into right channels. We have already seen how he proposed to utilize the union of riches and single life in the Archbishop of Canterbury and Bishop Andrews: he hoped to engage it in the service of the Great Instauration. We shall see hereafter how much he busied himself (near about this time) to mend the conditions of the great Charter-house charity, commonly described as "Sutton's will,"—a public bequest in which he had no private interest whatever,—merely because he thought it unwise and a mistake. And he may have thought that the widow of a chancellor of a university, herself well left and her family abundantly provided, might be disposed or disposable to bestow part of her wealth upon some measure for the advancement of learning,—pensions, for instance, to compilers of natural history, or the foundation of a college for inventors, Not that I suppose if he had any reasonable prospect of a legacy for himself, he would have thought it either wise or virtuous to throw away the chance for want of a little civility and attention; but the other supposition seems to me more probable.[1]

The foregoing survey will give a fair general idea of the contents of this book, and will be useful as a guide to those who wish to study it in detail. For the rest I must refer to the foot-notes, where I have offered such further elucidations as I had to offer. The particulars are so many, the indications so obscure, and the questions alluded to, some of them, so large, that an attempt to explain everything which requires and admits of explanation would involve, not only an endless labour, but an amount of discussion and exposition, exceeding the limits which can be allowed to such matter in a work like this. A diligent search through all the places now accessible to literary students might probably yield further information concerning the many persons, causes, services, warrants, etc., which are alluded to, and in

[1] It has been suggested to me, as a simpler explanation, that the *utilitas* referred to was merely some professional employment connected with Lord Dorset's will; which would no doubt give work to lawyers. But I am not well enough acquainted with the practice of the time in such matters, to judge whether this was likely.

some cases it might throw useful light upon them; but for the mos part they would in all likelihood prove to be matters of forgotten business, important to those who had to deal with it, but not to us, and of which it would be impossible now to recover the history completely enough to make them really intelligible. I propose, therefore, to leave that labour to some fresher student working in a smaller field, and direct my own attention chiefly to those suggestions which Bacon followed up and worked upon, and which we shall meet again hereafter.

In printing these notes the only alteration which I have introduced is in the punctuation; the effect of which, as it stands in the manuscript, would in many places be misrepresented by an exact copy in regular type. The many variations of which handwriting admits as to space between words, space left at the end of lines, size of letters, care or carelessness in forming them, and the like, supply the place of punctuation, and are lost in typography, which must represent them by such means as it has; and therefore where I have observed that the division of sentences or clauses obviously intended by the manuscript would not be inferred from the printed line, I have introduced points. Even this liberty, however, I have used sparingly; and in other respects I have not intentionally altered a letter.[1] The reading is, of course, in many places difficult and doubtful; but having taken the further precaution of obtaining from Mr. N. E. S. A. Hamilton, of the British Museum, a minute and careful collation of the printed slips with the original MS., I trust it will be found to be as correct a copy as the case admits of.

Many of the notes have a line drawn across them, in preparation apparently for a new collection of *transportata*. Where this is the case I have mentioned it in the foot-notes, but the text is meant to represent the MS. as it originally stood; and no word is omitted which does not appear to have been intended to be erased at the time of writing.

[1] I ought, however, to mention that some words, chiefly such as begin with *i* or *a*, are printed with a small initial letter, though they appear to be written with a capital. There are in fact so many such words which are so distinguished without any apparent reason, that I think Bacon cannot have meant them for capitals, but meant only to make the small letter in the form usually appropriated to capitals.

COMENTARIUS SOLUTUS SIVE PANDECTA, SIVE ANCILLA MEMORIÆ

Habet Libros duos:

1. Comentariū transportatorꝙ ex Comentario vetere.
2. Commentariū novum et currentem.

Lib. 1. sive Comentarius transportatorꝙ consistit ex diario et schedulis.

TRANSPORTATA EX COMENTARIO VETERE

Jul. 25.

[f. 2.] To make a stock of 2000l allwaies in readyness for bargaines and occasions.

To sett my self in credite for borowing upon any great disbursemts; Swynerton; Sr Ric. Mullineux; my sister Periam; Antropos; Jh. Howell per Champners; Sr. M. Hickes.

To the same purpose to have surties ready. my bro. Nathan./ my brother Ed./ my Cos. Cook./Ed. Jones:/ He. Fleetwood/ Faldoe./ Rob. Kemp. Hedly.

To sett on foote and mainteyn acces wth his M. D. of the Chap. / May./ Jh. Murry/.

Swynerton. Sir John Swinnerton, Knt, a London alderman: as I gather from another mention of him [p. 95], where his name appears as creditor for £250. He was one of the sheriffs of London at the time of James's entrance, was knighted at Whitehall, 26th July, 1603, sate for Grinsted in the next Parliament, and was afterwards Lord Mayor. See Nicholls, i. 215.

Sir Ric. Mullineux. Sir Richard Molineux, member for co. Lancaster in James's first Parliament, and one of the first eighteen baronets created in 1611. His name stands second on the list. See Nicholls, ii. 422.

My sister Periam. Widow of Chief Justice Periam, who died in 1604: one of Bacon's half-sisters.

Jh. Howell. There was a Sir John Howell knighted 7th July, 1619. See Nicholls, iii. 555.

Sir M. Hickes. Sir Michael Hickes, with whom we are already acquainted, as one of Bacon's familiar resources in his money difficulties.

These two notes are crossed out in the MS.

My bro. Nathan.: my brother Ed. Nathanael Bacon of Stiffkey, Norfolk; and Edward, of Shrubland Hall, Suffolk; second and third sons of Sir Nicholas by his first marriage.

My cos. Cook. Probably Sir William Cook, one of the Giddy Hall (Bacon's mother's) family, who married (see Vol. II. p. 369) Joyce Lucy, only surviving issue of Sir Thomas Lucy of Charlescote, by his first marriage, and heiress of Hynam in Gloucestershire. He died in 1618. See Rudder, p. 342.

Ed. Jones, He. Fleetwood. Both these names are crossed out. The first may perhaps be the "Edward Jones" in whose favour the letter, Vol. II. p. 371, was written.

Rob. Kemp. Probably his cousin Robert Kemp; concerning whom, see Vol. I. p. 261, 269.

D. of the Chap. Dean of the Chapel. Dr. James Montague, formerly Master of Sidney College, Cambridge, went with the University to meet the King on his way to London, took his fancy, and was made Dean of the Royal Chapel, afterwards Dean of Worcester, now lately (April 1608) Bishop of Bath and Wells, and in 1616, Bishop of Winchester. (See Collins.) He was editor of the King's Works, published in 1616.

May. Humphrey May, I presume; groom of the Privy Chamber; who had a grant (26th Nov. 1607) of the reversion of the Clerkship of the Starchamber, after Mill and Bacon; was knighted in January, 1612–13; and became afterwards Chancellor of the Duchy of Lancaster, and a man of considerable importance. See Forster's 'Life of Sir John Eliot.'

Jh. Murry. John Murray of the King's Bedchamber. See Vol. IV. ch. i.

These three were men personally familiar with the King, by whose help Bacon hoped to obtain opportunities of conversation with him.

Keeping a cowrs of accesse in the begynnyng of every term and vacac. wth a memoriall, the one being a tyme of execution, the other of præparacion. /

To attend some tyme his repasts and to fall into a cowrse of famil. discowrs.

To fynd means to wynne a conc. not op^n^. but private of being affect. and ass. to the Sco. and fitt to suc. Sa. in his manage in y^t^. kynd: / L. Dunbar / D. of Lenox and Daubiny / Secret.

Affect. and ass. to the Sco. The last word is not very clearly written; but I think I cannot be mistaken in supposing it to be short for "Scotch." Bacon's zeal in favour of the *Union* with Scotland, had indeed been manifested so publicly that it neither required confirmation nor admitted of concealment. But zeal for the Union did not necessarily imply affection for the Scotch; too great a display of which would not have been conducive to influence in the House of Commons. With the King, and those about him, it would of course be a strong recommendation; and as Salisbury, who had been for many years doing valuable service as a secret favourer of his claims, and confidential adviser and manager of the intercourse between the two countries, had now a world of new business in another department thrust upon him, it was likely that some one else would be wanted to help in this. It was an office which would have suited Bacon well, enabled him to promote the Union, and brought him into personal communication with the King. And nothing was more likely to recommend him for it than the creation of an impression—the "winning of a conceit, not open but private,"—of his "being affectionate and assured to the Scotch, and fit to succeed Salisbury in his manage in that kind." The names which follow are all the names of Scotchmen connected with the Government or the Court, through whom such an impression might be created and established; and the rest of the paragraph appears to consist of notes of the works or services by which he hoped to approve it.

L. Dunbar. Sir George Home, High Treasurer of Scotland, 5th Sept. 1601; Chancellor of the Exchequer in England (see Cal. S. P. Dom. James I. 7th Oct.) 1603; Privy Councillor, and Lord Home of Berwick, 7th July, 1604; Earl of Dunbar, 3rd July, 1605; High Commissioner to the General Assembly of the Church of Scotland, 1606 and 1608; Keeper of the Privy Purse, 27th Nov. 1608; Knight of the Garter, 20th May, 1609; High Commissioner to the General Assembly at Glasgow, 8th July, 1610; died 29th Jan. 1611 (Nicholls, i. 248). According to David Hume, he was the King's declared favourite as long as he lived, "and one of the wisest and most virtuous, though the least powerful, of all those whom he ever honoured with that distinction." This name is crossed out in the MS.

D. of Lenox. Lodowick Stuart, Duke of Lenox, grandson to John, Lord D'Aubigny, whose younger brother was the King's grandfather; High Commissioner to the Parliament of Scotland in 1607. Nicholls, i. 36.

Daubiny. Esme Stuart, Lord D'Aubigny, younger brother of the Duke of Lenox, a large recipient of the King's bounty.

Secret. and Elvingst. his brother. Sir James Elphinston, third son of Robert third Lord Elphinston. Lord of Session, 1588; Commissioner of the Treasury, 1595; Secretary of State 1598; Lord Balmerinoch, 20th Feb. 1603–4, (continuing, however, to be called "Lord Elphinston" in England. See 'Court and Times of James I,' vol. i. p. 78); Commissioner for the Union 1604; President of the Court of Session, 1st March, 1605. He is said to have stood so high in the King's opinion at this time that he was thought of for English Secretary of State; but being called in question not long after for having surreptitiously obtained the King's signature to a letter to the Pope, and confessing the fact, he was found guilty of high treason. The sentence was not executed; and after a short imprisonment he was allowed to go to his own house, where he lived in retirement. Nicholls, i. 108; State Trials, ii. p. 722; S. P. Dom. Jas. I. 10th March, 1609.

His elder brother Alexander, the fourth Lord Elphinston, was Lord Treasurer of Scotland, and was also one of the Commissioners for the Union (see Journals of H. of C. p. 319):—a circumstance which would make Bacon personally known to both of them.

and Elvingsto. his brother: / to reconc. to Hayes / use of Hamilton / Gibb / Jh. Murry. Ackinso. Rog. Ash. / greatnes of Britt. / union in Parlam^t. / sutes / mariages.

To reconc. to Hayes. The reading here is doubtful. Mr. Hamilton reads it "To reconc to Hayes," of which I can make no sense. I had myself taken the letters to be "To recove. Lo. Hayes; and supposed them to be short for "To recover Lord Hayes," that is, to renew acquaintance with him. James Hay, a gentleman of the Privy Chamber in Scotland, came to England with the King, and appears to have been a great personal favourite, and much distinguished at all tilts, masques, and other gaieties of the Court. He was knighted in 1603 (?), and in June 1606 was made Lord Hay, with all the rights and privileges of a Baron, except that of sitting in Parliament. He was afterwards created Earl of Carlisle, and was one of the most splendid noblemen of his time. Clarendon describes him as a man of great abilities, but one who chose merely to enjoy himself, and deliberately declined the pursuit of greatness in any other way.

I do not know what acquaintance Bacon had had with him, or whether it had been suffered to decline. But he was one of those, when he first came, whose acquaintance Bacon would naturally seek, and it may very well be that their ways lay too far apart, and that their fortunes advanced too unequally in speed of growth, to allow of its being kept up. If so, it was natural now, when Bacon was looking about for means of access to the King, that he should think of re-establishing his relations with Lord Hay. This note is also crossed out in the MS.

Hamilton. We have seen (Vol. III. ch. 6, § 3) that at the meeting of the Commissioners for the Union, on the 2nd of November, 1604, "report was made severally, first by Sir Francis Bacon, and then by Sir T. Hamilton, Lord Advocate of Scotland, of the services performed by the subcommittees;" and that on the 24th, "direction was given to Sir Francis Bacon and the Lord Advocate of Scotland to review the articles" agreed upon, and put them into form. There can be little doubt, therefore, that this was the person here alluded to. He is described in the list of Commissioners as "Sir Thomas Hamilton, of Binnie, Knight."

Gibb. John Gibb, Groom of the Bedchamber, of whose character and relation to the King we may gather something from an anecdote told by Wilson, which would have been better known than it is (as it well deserves to be) if he had told it more simply. The scene is at Theobalds, and the date some fourteen years after the time we are treating of. The King wanted some papers in a hurry, which he thought he had given to Gibb. Gibb, being asked for them, declared they had not been given to him. The King insisted that they had, and flying into a rage, when Gibb fell at his feet and offered to take it upon his death that he never had them, struck him with his foot as he passed. Gibb rose from his knees, and saying, "Sir, I have served you from my youth, and you never found me unfaithful; I have not deserved this from you, nor can I live longer with you with this disgrace; fare ye well, Sir, I will never see your face more,"—left the room. The gentleman to whom the missing papers had really been given, seeing the stir and learning the cause of it, immediately produced them. Upon which the King instantly called for Gibb, and being told that he had left the place and gone to London, sent a messenger post haste to bring him back, protesting that he would neither eat, drink, nor sleep till he saw his face; and, when he returned, kneeled down before him upon his knees, gravely entreated his pardon, declared that he would not rise till he had forgiven him, "and though Gibb modestly declined it with some humble excuses, yet it would not satisfy the King till he had heard the words of absolution pronounced." (Wilson, p. 219.)

Jh. Murry. John Murray, another gentleman of the bedchamber, afterwards Earl of Annandale; concerning whom see above, chap. i. § 1.

Ackinso (crossed out). Perhaps "Archibald Acheson, *Scotus*," who was knighted at Whitehall on the 31st of March, 1620. (Nicholls, iii. 603.)

Rog. Ash. Sir Roger Aston, a gentleman of Cheshire, who had been in the King's service before his accession, and was one of the first sent over upon news of Elizabeth's death. He also was of the bedchamber; was knighted in 1603, and made master of the wardrobe about 1607. He appears to have been in constant attendance on the King's person, and a great absorber of his bounties.

greatnes of Britt. Bacon's own treatise "of the true greatness of Britain;" of which I have spoken fully in the last section of the last chapter.

Setting down and finishing my Argum^t^ of the postnati and p^r^scnting it to y^e^. K / my L. of Salsbury. [f. 2, b.]

Dispersing ye argum^t^ and the 2 speaches as in one book amongst the Sco. men and namely the L. fivy: the Advoc. Cragius.

Being p^r^pared in ye matter of prohibicions: putting in a clayme for the K. / the 4 necessities; tyme as of warre / place as frontieres remote; person as poore that have no means to sue those that come in by safe conducte; Matter, mixt wth state; Judges to consult wth K. as well as ye K wth Judges / Russwell Sollic. in ye case of the duchy concurred not. qu. of making use of my L. of Cant. opposit. to y^e^. la. in poynt of reformyng the Lawes, and dispriz. mere Lawyers.

Note. Summary justice belongeth to ye K^s^ p^r^rogative. The fountaine must rune whear the conduits are stopped.

To p^r^pare eyther collect. or at lest advise towching the equalling of Lawes.

Rem. to advise the K. not to call Serg^ts^ before parlam^t^, but to keep the lawyers in awe.

argum^t^ of the postnati. See Lit. and Prof. Works, ii. p. 639. This whole note is crossed out.

the 2 speaches. Namely the speeches on general naturalization, and on union of laws.

the L. Fivy: the Advoc. Cragius. In the list of Commissioners for the Union on the part of Scotland the names occur of "Alexander, Lord Fivie, President of the Counsell of Scotland," and "Sir Thomas Craig, of Writchisland, Knight, Lawyer." And these are no doubt the persons alluded to.

Lord Fivy was selected, along with Lord Cranbourn (R. Cecil), to prepare a preface for the instrument of union, the body of which was to be put into form by Bacon and Hamilton.

Sir Thomas Craig was an old and distinguished Scotch lawyer, author of a learned work on the Feudal Law, and of treatises (unpublished) on the succession to the throne, on the union of the kingdoms, and on homage. He was at this time Advocate of the Church of Scotland.

These two, therefore, were obviously the likeliest men to turn "the argument and the two speeches" (concerning which see chap. i. § 7 of this volume, and chap. viii. §§ 6 and 8 of vol. iii.) into account among the Scotchmen. But Sir Thomas Craig died in the following February, being over seventy years of age. ('English Cyclopædia.')

dispriz. mere Lawyers. The "matter of Prohibitions" was the dispute as to jurisdiction between the courts at Westminster and the provincial courts in Wales and the North; of which I have already said something (vol. iii. chap. ix. § 2) in connexion with the draft "Proclamation touching the Marches;" and a full account will be found in Mr. Heath's preface to Bacon's legal argument on the subject. The "claim" to be put in "for the King" was in the interest of government—the necessity of a reference to Westminster upon every point of litigation being inconvenient for the subject in places so far remote, owing to delay and expense. In such a dispute the Archbishop of Canterbury naturally took part with the Crown: and it occurs to Bacon by the way that the humour of "opposition to the lawyers" into which it brought him might perhaps be worked upon so as to give him an interest in that reform of the law which he wanted to bring about, and "disprizing mere lawyers," who were the natural obstacles in the way of it.

equalling of Lawes. That is, removing the discrepancies between the laws of England and Scotland, preparatory to a perfect union. See "Preparation for the Union of Laws," Lit. and Prof. Works, ii. p. 729.

In awe. That is, to keep them in expectation of promotion, and in fear of forfeiting it.

[f. 3.] To make somew^t of my sute and refer. towching ye place of ye Mars. eyther for my self or some other.

to joyne another and a cau. } To remember to be ready for argum^t in my La. Arb. cause before

The place of the Mars. Probably the Court of the Marshalsea, which had jurisdiction to hear and determine causes between the servants of the King's household within the verge of the Court—that is, within a circle of twelve miles round the King's palace. A few months before, a man had been arrested for debt under the authority of this court (Coke, Rep. x. p. 69), upon which an action for false imprisonment was brought, on the ground that the parties were not servants of the King. The action was apparently still depending; but the question may very likely have been referred to Bacon for his opinion. And, judging by the course which was ultimately taken, I suppose his opinion was that, the jurisdiction being questionable, and yet the limitation being inconvenient, it would be best to erect a new court with authority to hear and determine all causes between party and party within the verge, whether they were servants of the household or not. If so, the way he could "make somewhat of his suit and reference touching the place of the Marshalsea, either for himself or some other," would be by getting the appointment: which he afterwards did, as we shall see when we come to his "Judicial Charge upon the Commission of Oyer and Determiner for the Verge." The words in the margin (the last of which, if I read the letters right, I cannot guess; but it may possibly be meant for *Com., i.e.* "Commission") seem to contain a suggestion that *two* judges should be appointed, which was done; for in the letters-patent which erected the new court two judges were nominated (Montague, 'Life of Bacon,' p. cli.), himself and Sir Thomas Vavasor, then Knight Marshal of the Household.

In the session of 1606–7 three bills for reformation of abuses in the Marshalsea Court were brought in; one of which passed its third reading, and was sent up to the Lords (12th May, 1607); but as I do not find it among the statutes, I presume it was lost in the upper house.

My La. Arb. cause. The "Lady Arabella's cause" must not be supposed to have had anything to do with Sir William Seymour, the discovery of her relation with him being of later date by a year and a half. It may possibly have been connected with a grant which she received the year before (S. P. Dom. 9th March, 1607) of "all sums paid into the Exchequer from the lands of Thomas Earl of Ormond,"—or with that "bill put into the Exchequer, or some other court, concerning much land that by reason of pretended bastardy in Queen Elizabeth should descend to divers persons," of which Chamberlain "heard a muttering" in October, 1608, and in which she was named as "one of the chief actors." In either of these there may have been some cause pending before the judges, in which the King was interested "in point of profit." But the cause in question was most likely a suit for the erection of a patent office,—which we know was moved about this time on her behalf. It was one of the innumerable projects for raising money, partly for the profit of the Crown, partly for the benefit of the public, chiefly for the benefit of the promoter—and supposed to be altogether at the expense of persons who were making unfair profits—in which these times were so prolific. Whenever any trade took advantage of the market to sell dear, there was some one who could show that a restriction upon the rise of prices would be a gain both to people and King, and who would undertake, for a share in the King's gain, to enforce it. The Lady Arabella Stuart's project, or the project invented in her behalf, was to cheapen oats, for the benefit of travellers, at the expense of innholders; to effect which, it was proposed that every innholder or hostler should be required to bind himself every year in a recognizance of £5 "not to take any more than sixpence gain over and above the common price in the market, for and in every bushel of oats which he or they should vend or sell, in gross or by retail, unto any passengers or travellers; the said bushel also, or any other measure, to be according to the ancient measure or standard of England, commonly called Winchester measure." For every such bond or recognizance the Lady Arabella (or her deputy) was to be authorized to take "of every innholder or ostler the sum of two shillings and sixpence," of which she might retain for her own use, "in consideration of pains and

terme and to sp. wth my L. of Salsbury in it: cheefly in poynt of profite; and ye Judges to be made and p^r^pared (though my La. be otherwise remembred).

To sp. to my L. of Salsbury of 3 restitucions. Cote and cond^t^ mony to ye cuntry. / Tythes owt of parishes to ye Church: fifteenthes levyed of Townes excepted to ye Townes.

Note ye conceyt that hath been putt into ye Ks head, that puritans are most for the union and the B^ps^ against it.

N. Sals. loveth not to have the B^ds^ informed of any good affectiō in ye peop. to ye Sc. nat.

charges," a fifth part. By this it was estimated that the King's revenues would be increased, without any charge, by £1000 a year; that "the travelling subject of all sorts, as noblemen, judges, lawyers, gentlemen, linen-men, woollen-men, hardwaremen, and carriers, who are the upholders of all trades within this land, would in their travel be much eased, and thereby wares might be sold in the country the cheaper;" that the use of the common measure of the land would be enforced; while the innholder and ostler would still receive "ten times more than ever any law heretofore allowed them."

I do not find that this suit was granted, but that it was under consideration at this very time is proved by the endorsement of the paper (Lodge, iii. p. 236), from which I have extracted these particulars,—"A copy of that which the King's Majesty is to be moved to sign touching oats. July, 1608." It is in the form of a warrant for a Patent under the Great Seal, and the endorsement is said to be in the hand of the Earl of Shrewsbury. What Bacon had to say to Salisbury about it, and in what shape it was to come before the judges the next term, I do not know. We shall see a little further on that to "beat down unfit suits with law" was one of the duties of an Attorney-General in which he found Sir Henry Hobart weak or negligent. And this may have been one of them.

This note and the next are crossed out.

Cote and cond^t^ money. See S. P. Dom. James I., vol. v. No. 71, from which it appears that complaint had been made of the misappropriation of coat and conduct money paid in the late Queen's time; which the Deputy-Lieutenants of certain counties in Wales professed to have expended in different ways for the benefit of the county.

"Coat and conduct money" was money assessed upon the hundreds for the outfit of the levies they had to provide, and the expenses of conducting them to the place of rendezvous or embarkation. On the 12th of October, 1607, letters were sent from the Council to the Lord Lieutenants, etc., "for the sending of 600 soldiers into Ireland, with arms and apparel to be provided by the country, the conduct money after the rate of 8^d^ a day for each man, 6^s^ for the conductor, and 4^s^ for a coat, to be allowed upon certificate out of the Exchequer." See 'Abstracts of the Registers of the Privy Council, 1550–1610,' Add. MSS. Brit. Mus. 11,402. See also 'Verney Papers' (Camd. Soc.) pp. 118, 127.

fifteenthes levyed of townes excepted. By 35 Eliz. c. 13, the subsidies thereby granted were to be levied "as well within the liberties, etc., and other whatsoever places, exempt or not exempt, as without," any grant, etc., to the contrary notwithstanding; but with an express proviso that all such exemptions should hold good in future. (See Stat. of the Realm, iv. pp. 871, 882.) I fancy that the commissioners for subsequent subsidies, following the last precedent and not remembering the proviso, had continued to levy the fifteenths upon some of the towns that had a right of exemption.

Bd^s^. I cannot guess what this word is meant for, unless it be "Boards"—that is, Council Boards. Nor do I understand why Salisbury should have disliked "to have the Boards informed of any good affection in the people to the Scottish nation;" unless he thought it might confirm the King in the notion that the Puri-

My L. of Sa. is to be remembred of the great expectation wherewith he enters; as that he will make the Ks paym^{ts} certen; that he will remedy unlawfull transportat. as ordon̄. leather, grayne: That he will lymite assynm^{ts} of bonds; That he will deale moderately wth recusants; That he will fauor the K^{s}. ten^{ts}. That he will moderate concelm^{ts}. That he will moderate new Imposicions.

[f. 3, b.] To have ever in readyness matter to minister taulk wth every of the great counsellors respectivè, both to induce familiarity and for countenance in publike place.

Spec. 13. Note amongst the pores of gayn thought of by my L. of Salsb. He wanteth Divites et Orbi tanquā indagine capi; and matter of marchanding, wch mixt wth power of estate I conceyve may doe wonders.

♣ To wynne cred. comparate to ye Att. in being more short, rownd and resolute. (All this is nothing except) (Thear is more) (Oportet isthæc fieri finis autē non dum).

To foresee no imput. upon ye serv. of depopulacion; Not se-

tans were the best friends of the union, and so incline him to be too favourable to that party. It may be that those who "put into the King's head" that conceit, would take advantage of discussions in Council to work upon it.

Concelm^{ts}. "Concealers" (says Cowell) "be such as find out concealed lands; that is, such lands as privily are kept from the King by common persons, having nothing to show for them." It is obvious that the zeal of commissioners for the discovery of such lands (who farmed the office) would need moderating very much.

New Impositions. Taxes upon goods imported and exported; the imposition of which by the Crown without consent of Parliament, though held legal by the judges, was disputed in the Lower House, and became soon after a principal battle-field between the King and the Commons. It seems to have been too late to remind Salisbury of what was expected of him in this department, for he had already, the month before, while lessening the existing impositions upon some commodities, laid new ones upon others to the amount of £60,000 a-year. (See a memorandum by Sir Julius Cæsar, Lansd. MSS. 168, f. 307.)

Divites et orbi tanquam indagine capi. Tacitus, Annal. xiii. 43. *Romæ testamenta et orbos velut indagine ejus capi.* Compare Bacon's Essay on Riches. The fishing out of rich orphans was, I presume, with a view to the profit upon wardship.

Spec. 13. The meaning of this marginal reference, which is repeated several times, I cannot conjecture to my satisfaction. It may perhaps have been the title and number of another note-book, into which a particular class of memoranda was to be transferred.

Depopulacion. In a paper in Sir Julius Cæsar's hand (Lansd. MSS. 168, fo. 318), dated 10th Oct., 1608, and headed "The L. Trē despatches for this last summer for Exchequ. business," I find the subject of "Depopulation: How much hath been paid of the fines imposed upon the depopulators, what behind, the causes, the remedies," assigned to Mr. Attorney, Mr. Solicitor, and Mr. Recorder. The "service of Depopulation," therefore, was the enforcement of the legal penalties for "depopulating"—that is, for turning arable into pasture. A commission to examine abuses touching depopulation had been issued to the Lord Chancellor and the Earl of Salisbury in May, 1608 (S. P. Dom.). I do not know how to

cundū cor meū; The Att. myldness would have made me not able to indure the envy; How ye Isams scaped,—most farmes erected in my p^r^einct. Hussy / Carne / Whitchcott / Askew; they left me and went to ye Att. I tooke band for contynuance as well as for restitucion.

To turn over by indent. ye Ks evidence in my hands this vacac. wth ye privity of Mr Chancellor. [f. 4.]

To insinuate more to my L. Treasor. and Mr Chanc. for warr^ts^. Mr. Att. great availes Solus: utlawries, confessions, quo warrantoes. Latyne Informacions. Recouveryes.

To remember the 2^d^ booke of ye Contractors: Coppyn: Phillippes. Watson &c.

To take a note how many bookes of Tip. passe at every sitting, y^t^ I may see how I am used and ehaleng him.

Qu. W^r^ Spiller bring no. recus^ts^ leases to ye Atturny.

That as many leases in Reversion as passe the great seale be brought by Wolly to my self or ye Atturny.

Hollands sute and speaking wth Skynner about it.

Putting my L. of Salsb. in mynd of his promise towching buildinges and thereupō renuing Holls sute.

interpret the word "imput." I had myself read it *import.*, and taken it to be short for "importance;" from which I inferred that Bacon was not disposed to encourage the proceedings in this matter; though he had always been for *discouraging* enclosures, and this appears to have been the object of the government.

Mr. Chancellor. Sir Julius Cæsar, Chancellor of the Exchequer. This and the two following notes are crossed out in the MS.

Coppyn. Phillipes. Watson. Sir George Coppin and Sir Thomas Watson were among the contractors for the sale of certain parsonages, tithes, etc., not comprised in his Majesty's entail (S. P., Nov. 11, 1607). Francis Phillips had a grant at their nomination of divers rectories, etc. (Do. 4th May, 1608.)

Tip. William Typper, who had a commission from Elizabeth to discover the titles of Crown lands (S. P. Dom. James I., Sept. 1603), and appears to have been employed by the King in the same capacity (Do. 24th Sept. 1606, and 27th Ap. 1608). It was his business, I suppose, to discover and report cases for prosecution. These would have to pass through the hands of one of the law-officers, and the profits of the several offices would depend upon the number brought to each. Bacon seems to have suspected that the Attorney-General engrossed more than his fair share.

Spiller. Henry Spiller, of the Exchequer, whose certificate was required before any grants of recusants' fines were passed (S. P. O. Dom., Oct. 30, 1607; see also Dec. 29, 1603), of the true state of the recusants.

Wolly. Perhaps Sir Francis Woolley, Clerk of the Pipe of the Exchequer, who appears to have had the drawing of grants of lands forfeited to the Crown. (S. P. O. Dom. 10 Nov. 1608, and 3 Sept. 1607.)

Skynner. Probably Sir Vincent Skinner, officer of the receipts of the Exchequer. (Rymer, xvi. p. 497.)

Of "Holland's suit," or "yo. Tip." [young Tipper's?] mentioned in the next paragraph (which, together with the one which follows, is crossed out in the MS.), I have not been able to find any particulars.

[f. 4, b.] Making use of yo. Tip. sutc wth my L. Archb. and Salsb. the one for honor in regard of his place, the other generally as res bonæ famæ.

Perusing ye Kalenders against ye next Term yet better, and calling for those that want, and thinking of other cowrses for increase of practize.

Being armed against except. of incompatib. of both offices, and namely of practise in that Cowrt: Example of Chanc. M^{r} of ye Rowles; my father L. Keep. and for 2 years Att. of ye Wardes; Onsloe Sollicitor and Clerk of ye Duchy; the M^{rs} of the Chanc. at first allowed that they mought practize; Comendā and turnyng it to a jest—a dean and a fatt benefice: Non obstante as well as Mr Recorder / Long stay 21 years to extinct envy: yf I should not have health whearby to practise, some help (ad idem).

[f. 5.] Taking a cowrse by ye Att. to have full pract. in ye Starchamber.

Taking a furder cowrse for practise in the Chancery. Chamberlaine; Waltō; Enquir the Clerkes. Register.

Speak. again with Yelverton. Crookes Order for ye Ks bench.

Except. of incompatib. "Exception of incompatibility": that is, against the objection that the Solicitorship and the Clerkship of the Council in the Starchamber, could not be held by the same person. The cases which follow are precedents of one person holding more than one office. Sir Thomas Egerton (now Lord Ellesmere and Lord Chancellor) was made Lord Keeper in 1596, yet continued Master of the Rolls for the rest of Elizabeth's reign. Sir Nicholas Bacon continued Attorney of the Wards for two years after he became Lord Keeper. Richard Onslow was Solicitor-General in 1566, and continued (it seems) Clerk of the Duchy; and the Masters in Chancery were at one time allowed to practise at the bar.

Comendā. "Commendam" (says Cowell) is a benefice that, being void is commended to the charge and care of some sufficient clerk, to be supplied, until it may be conveniently provided of a pastor." Under this colour pluralities were given: a dean could hold a benefice *in commendam*.

Mr Recorder. Sir Henry Montague, who was Recorder of London, received a grant (11 Sept. 1607) of the office of one of the King's Learned Counsel (S. P.), and it may very likely have contained a clause of *non obstante*, dispensing with some of his obligations as Recorder. As adviser and advocate of the corporation (which the Recorder of London was, I presume, then, as he still is), his duty might in some cases clash with his duty as King's Counsel.

21 *years.* Bacon's memory was not very accurate in counting time. He had had to wait only nineteen years. Compare a similar error, vol. i. p. 350, 351.

Chamberlaine. Perhaps Richard Chamberlaine, Clerk of the Court of Wards. (S. P. Dom., 24 Sept. 1604.)

Yelverton. Henry Yelverton, an eminent lawyer and active member of Parliament, hitherto on the popular side, who afterwards succeeded Bacon as Solicitor and Attorney-General.

Crooke. Sir John Croke, Knt., Speaker of the House of Commons in 1601, Judge of the King's Bench in 1607.

To be p^r^pared for Mr Masons cause at Serg^ts^ In next Term.

To make use for collections and looking over the bookes of Wrytington, Lavyn. Hyll. qu.

For p^r^sid^ts^ and antiquities to acquaint my self and take collections from Sr Rob. Cotton; Bowyear. Spec. 13.

To take Th. Jones for my businesse and Sollic. instead of Gr. Jones.

To sett an order in Allens cause against ye reading by Chamberlaine Gerard or some other.

To give Ockleton satisfaction of 100^l^ in mony, bycause I sawe his cowrse was for Cowrt and not the place of a Clerk.

To have an ey to ye last conveyance for my wyves Jointure, to send the deed to S^r^ Jh. Brogr. and to see how it reacheth to the wood w^h^. I had of pemberton. † Spec. 13.

To moove my L. for the Cust. rot. yf Brogr. dye, except my L. of Salsb. will have it. [f. 5, b.]

To be p^r^pared. This note is crossed out in MS.

Wrytington. Probably the person whom Bacon recommended (2 July, 1616) for the Solicitor's place in Ireland, as "a gentleman of mine own breeding and framing, Mr. Edward Wyrthington, of Gray's Inn; he is born to £800 a year, he is the eldest son of a most severe justicer among the recusants in Lancashire, and a man most able for law and speech, and by me trained in the King's causes. My Lord Deputy, by my description, is much in love with the man." He may have been the same Edward Wrightington who (S. P. Dom. James I., 24 Sept. 1604) was once Clerk of the Wards.

Hyll. There was a William Hill, Auditor of the Exchequer (S. P. Dom., 21 May, 1603), and a Robert Hill, Clerk of Assignments (do. 2 Nov. 1609).

Bowyear. Robert Bowyer was Clerk and Keeper of the Rolls of Chancery, and all other records and rolls in the Tower. There is a letter to him from Bacon in the Inner Temple Library, asking for the loan of a copy of certain collections concerning the King's prerogative, etc. It is dated 27 Feb. 1608–9, and will appear in its place.

Allen's cause. Could this be the cause between John Parker and Thomas Allen, thus described in the Calendar of State Papers (Dom. James I., 1610?, p. 657):—"The latter having promised to repay a loan of 4^s^ and 6^d^ made to him by the former, by giving him one grain of wheat for the first of the 36 button holes on his doublet and doubling the amount for each of the others, the total is found to amount to 36,708 quarters of wheat, against the payment of which Allen remonstrates."

Chamberlaine. Perhaps Thomas Chamberlain, Sergeant-at-Law, afterwards Judge of the Court of Session of the County Palatine of Chester. (S. P. Dom. Jas. I., 28 Ap. 1616.)

To give Ockleton, etc. This note is crossed out. I do not clearly understand the transaction.

S^r^ Jh. Brogr. Sir John Brograve, Attorney of the Duchy of Lancaster; he was recommended by L. Keeper Puckering for preferment when the law offices were so long vacant in 1595 (see vol. i. p. 257), and died in 1613. (Chamberlain to Carleton, 14 Oct. 1613.)

Cust. rot. "*Custos Rotulorum*" (says Cowell) "is he that hath custody of the Rolls or records of the sessions of the Peace, and (as some think) of the Commission of the Peace itself."

Spec. 13. To renew and parfite orders for my servants as things now stand.

Spec. ✝ To be throughly seen and informed towching my off. of ye Starrechamber that I may just account, and ye subject be well used, and ye Cowrt fynd an alteracion to ye better.

To sett down in wryting tables and directions for the inferior places, some publike some private.

To procure of my L. Ch. the establishm^t^ of some doutfull but reasonable fees, and ye alteracion of some cowrses of his which hynder the Cowrt, as casting owt perjuries, the orders for length of bills etc.

To bring in use every Term to have somew^t^ to moove concernyng service of ye Ks at after dynner.

[f. 6.] To correspond to Sa. in the Invent. of sutes and levyes of mony and to resp. poll è gem. for emp. cof. and alien. of ye peop.

To have in mynd and use ye Att. weakenes^s^ The exam. of

My off. of ye Starrechamber. My office of Clerk of the Council of the Starchamber: "an office," says Coke, "of great account and trust; for he is to receive, endorse, enter, keep, and certify the bills, pleadings, records, orders, rules, sentences, and decrees of the Court; and I find that in former times men of great account have had that office in this Court." (Institutes, part iv. chap. v. p. 66.) "Of latter times" (says Hudson, in his 'Treatise of the Court of Starchamber') "the Clerk of the Court doth appoint also the *examiners*, to take also the examinations of all the defendants and all the witnesses which are examined in that Court;" but the appointment belonged, he says, originally and properly to the Lord Chancellor, and ought to be restored to him, "for that it lieth in the power of the examiner to acquit the offender and condemn the innocent; yea and to perplex the Court by uncertain testimonies, or tire them with frivolous discourse, if that officer be either corrupt or ignorant."

"The sentences, decrees, and acts of this Court are engrossed" (says Coke, Inst. pt. iv. c. v. p. 63) in a fair book, with the names of the Lords and others of the King's Council and Justices that were present and gave their voices." And this, I suppose was the "booke of the Kallender of Orders" which was delivered to Bacon on the 19th of August, 1608 (Egerton Papers, Camd. Soc. p. 428), and appears to have been then complete from the beginning of Henry VII.'s reign to the 30th of Elizabeth.

To bring in use, etc. This note is crossed out.

To correspond to Sa. . . . alien. of ye peop. Salisbury, being now Lord Treasurer, had the difficult task laid upon him of gathering money enough into the Exchequer for the King's needs. One resource for this was "the invention of suits,"—that is (if I understand it rightly) of offices for the discovery and recovery of money due to the Crown; for the right of receiving which to his own use the discoverer paid the Crown a rent. A considerable revenue was derived from these rents; but the personal interest which the officer had in his work, though it made him active, was apt to make him grasping and vexatious, and so to create popular discontent. It was necessary therefore in these "suits and levies of money" to remember and avoid that danger, and "to respect policy *e gemino*," for replenishing "empty coffers" on the one side, and for avoiding "alienation of the people" on the other.

ye Att. Sir Henry Hobart, who had succeeded to the office of Attorney-General on the promotion of Coke to the Bench in July, 1606. Of the general question suggested by this note I have spoken fully in my introductory remarks, p. 34.

Fullers book; the destroying of the serv. of depopulac. the exorbitant assur. to ye Cytye, in w^h^ so great estate was ingaged as ye K could not help himself by any other assur. And so my L. Dunbar pat. first at a stay. after but dc bene esse. / The coldest exam. / weak in Gunters cause, weak wth the Judges Arbe. cause / To full of cases and distinctions / Nibbling solemly / he distinguisheth but apprehendes not.

Fuller's book. This, I suppose, was Nicholas Fuller's argument to prove that the Ecclesiastical Commissioners had no power by virtue of their commission to imprison, to put to the oath *ex officio*, or to fine any of his Majesty's subjects; for which (delivered originally as a pleading in Court upon a writ of *Habeas Corpus*, but afterwards printed) he was prosecuted by Archbishop Bancroft, imprisoned, and fined. See Fuller, 'Church History,' A.D. 1610; who appears, however, to have been mistaken both as to the date of the proceeding and the issue. For he adds that Nicholas Fuller died in prison: whereas it appears by a letter from Chamberlain to Carleton, dated 8th January, 1607–8, that he was set free on the Monday preceding; and we find him in the Parliament of 1610 in full activity, as member for the City of London, and strong on the popular side. (See Parl. Deb. in 1610, Camd. Soc.) I suppose that though the man, upon making certain submissions or retractations, was set at liberty, his book was reserved for examination and censure. Some question, in which he was concerned, there certainly was still depending; for I find from the abstract of the Privy Council registers (Add. MSS. 11,402) that on the 10th of April, 1608, "Mr. Fuller was licensed to practise at the Bar until his cause be heard in the Star Chamber; but to remain still restrained." "His own weakness and want of judgment" (says Chamberlain, 5th January, 1607–8) "hath been his greatest enemy, for having subscribed his submission and sent it to the Archbishop, by the persuasion of his wife and others, he hath afterwards sought to recall it, and feigned himself sick in bed when he should come to the tilt. His Puritan brethren, likewise, have not dealt well with him, in getting letters from him of all the proceedings, and copies of his argument, which they have printed to his great prejudice; and in truth he were like to be shrewdly handled, but that they see him such a weathercock, that turns with every blast, and so in some sort pity him." On the 8th he reports again, "Mr. Fuller came forth of the Fleet on Monday, very frolic, and so joyful that he would not lose so much time from home as to go about, but would needs cross the river on foot," [the Thames was frozen at the time] "having kissed the rod, and made his submission *modo et formâ*."

serv. of depopulac. "Service of depopulations:" see above, p. 46, note 5. It appears from that memorandum that Bacon thought the service had been so mismanaged by the Attorney that no good could be done in it.

assur. "The exorbitant assurance to the City" must have been upon obtaining some loan from the City to the Crown. There was a commission to the Lord Treasurer and others (11th February, 1607–8) to treat with such persons as should lend money to the King, or undertake for such as was already lent; and on the 30th of March, 1608, a warrant was issued to pay to Clement Edmondes, Secretary of the City of London, £133. 13*s.* 4*d.* for drawing the assurance to be made by the King for great sums of money borrowed of the said city (S. P. Dom., James I.): which was probably the occasion.

My L. Dunbar pat. Probably one of the many grants bestowed upon the Earl of Dunbar, the fund for providing which was pledged to the City by the assurance above mentioned. Dunbar had a grant (9th December, 1605) of all duties on logwood, blockwood, etc. But I suppose a simple grant for the payment of money (such as the warrant to pay him "3000*l.* yearly over and above the sums delivered at New Year's tide," 27th January, 1608) would be called a "patent:" and might be charged upon some fund included in the assurance, and so become "but *de bene esse*."

Arbe. cause. The Lady Arabella's cause. See above, p. 44, note 2.

The pennyng of ye 2 Lawes concernyng recusants. No gift with his penne in proclamacions and ye like. A great wysdome to know quid præscribere quid permittere, and to let nature woork: fault in Barwikes cause. The comis. of depopulac. 3 refourmed; So for Alehouses.

Mr Chancel. to speak wth Tipper for bookes to be brought me as whose my L. Treas. were loth, sed innuendo.

[f. 6, b.] To advise some partic. Kalendar were made by Tipper, that yf he dye the service may not fayle, at lest his bookes now syned to be p^r^served to ye Ks use, but qu. w^r^ they give light of the Title and the records vouched.

Insinuate my self to become pryvie to my L. of Salsb. estate; ✝ Noting it to Hickes and y^t^ my L. hath been once or twise about it.

Causing the waulkes about ye wall to be sanded and made handso. against Hickes comyng. So the old waulkes wth rayles and swept: Plott to be made of my poole; and the waulk through Pray wood and ye stand thear on the hill for prospect.

To corresp. wth Salsb. in a habite of naturall but nowayes perilous boldness, and in vivacity, invention, care to cast and enterprise (but with dew caution, for this maner I judg both in his nature freeth ye standes, and in his ends pleaseth ✝ him best and promiseth most use of me.

[f. 7.] To make profite of some thing in leas of ye Qs by Evans inform. Salsb. and Cary.

I judg my standing owt and not favored by Northamp. must

So for Alehouses. It appears from the abstract of the Privy Council Registers that on the 28th of February 1607–8, the Justices were ordered "not to proceed in the matter of alehouses upon his M. letters and instructions lately sent unto them"; that on the 4th of March other directions were sent to them; and that on the 3rd of April "printed articles were sent, differing from those that were sent before." (Add. MSS. 11,402.)

Tipper. Sir Julius Cæsar might drop a hint to Tipper (concerning whom see above, p. 47, note 3) that if he brought "books," that is, cases of defective title, for opinion or prosecution to Bacon, it would be agreeable to Salisbury.

Insinuate. This was no doubt with a view to get on a more confidential footing with Salisbury,—one of many devices for that purpose, which seem to have been quite unsuccessful. The next note but one throws further light upon the relation between the two cousins, and upon Salisbury's peculiar character and humour.

The waulkes, etc. A note of improvements to be made at Gorhambury; which I suppose was acted on; for the memorandum is crossed out.

Cary. Perhaps George Lord Carew, who was the Queen's Receiver-General.

Northamp. Henry Howard, Earl of Northampton, lately made Lord Privy Seal. Bacon had been acquainted with him in his early life, through the Earl of Essex; much to the alarm of his mother, who believed him to be a Papist. He

needes to me good wth Salsb. specially comparative to the Att. / Note the Att. would fayn have had Northamt. Treas. to avoyd him for Chancellor, and discouvered as much.

Some profite from ye Duchy for long service.

Some profite by some barg. of morgaged lands spec. in poss. qu. by ye record^r^.

To passe in dayes of Terme or Counsell of cowrs by my L. Chanc. and my L. Treasorer and to acquaint them ut videbit^r^ qu. of ye state of Manxell and Bacheler and Ockold for Fullers booke and what end.

qu. of Gunters cause and what end.

M^d^ to goe to my L. of Canterbury and interteyn him in good conceyt touching Sutt. will. and ye like to S^r^ Jh Bennett.

After a Maccration taken in ye mornyng and woorking littell I tooke a glister about 5 of cloeke to drawe it down better, which in the taking found my body full and being taken but temperate and kept half an howre wrought but slowly, neyther [f. 7, b.] Note there had been extreme heates for x dayes before and I had taken littell or no phisike.

was a very well read man, and much admired in his day, both as a writer and a speaker. But his style, though full of art and ingenuity, and what was then considered as elegance, is in my opinion essentially bad; and I think it was only the fashion of the time that made it endurable. He had taken a very active part, along with Cecil and Northumberland, in the secret correspondence with James during the latter years of Elizabeth; had been rewarded with many offices and dignities since James's accession; had made himself conspicuous in Parliament; and after Salisbury's death, was, for the short time that he survived him, one of three who had the reputation of being the Government. It seems from this passage that he was already great enough to be thought of for Treasurer and Chancellor. His ideas with regard to the policy of the time, especially in respect of the relation between the Crown and the Commons, were fundamentally opposed to Bacon's; which accounts for his not favouring him,—whichever of them stood aloof from the other.

from ye Duchy. Among the items of his income (see further on p. 83) Bacon set down his "Duchy fee" as worth £20. It appears therefore that he had some work to do in the affairs of the Duchy of Lancaster; but of what nature it was I do not know. He was probably one of the lawyers to whom legal questions relating to the revenues were referred.

ye Recorder. Sir Henry Montagu, Recorder of London, I suppose, though I do not know what he had to do with mortgaged lands. Nor do I well understand what the words "spec. in poss." are short for.

and what end. This and the next note are crossed out.

Sutt. will. "Sutton's will," I suppose. Thomas Sutton, founder of the Charterhouse, though still living, was already known to intend to bestow his wealth on some great work of public charity, and his design was so far mature that in the following year he obtained an Act of Parliament empowering him to erect a hospital at Hallingbury Bouchers, in Essex. As a matter which was so soon to come before Parliament, those who took an interest in it would be discussing it at this time, and endeavouring to entertain men in authority "in good conceit" with their views. But I shall have a fitter occasion to speak fully of Bacon's ideas on the subject.

S^r^ Jh. Bennett. Sir John Bennett, knighted 23rd July, 1603, Judge of the Prerogative Court at Canterbury, and Chancellor to the Queen and to the Archbishop of York. (Nicholls, i. 206.)

did I find that lightness and cooling in my sydes which many tymes I doe, but soon after I found a symptome of melancholy such as long synce wth strangness in beholding and darksomness, offer to grone and sigh, whereupon fynding a malign humor stirred I tooke 3 pilles of aggregative corrected according to my last description, wch wrought within 2 howres without gryping or vomite and brought much of ye humor sulphureous and feetide, then though my medicine was not fully settled I made a light supper without wyne, and fownd myself light and at peace after it. I tooke a littell of my Troc. of Amon. after supper and I tooke broth ymediately after my pill.

[f. 8.] To proceed wth some builders in ye beginning of the next Terme.

To proceed wth some Informers upon Sr Steph. Proct. discouvery in the beginnyng of the next Terme.

To remember the cause of ye Stannaryes before the Judges at Serg^ts^ Inne next Terme.

To wryte some treatise of advise towching prohibicions and jurisdictions of Cowrts, to see by Sr Rob. Cotton Lamberts booke thereof or othere collections.

Troc. of Amon. Trochises (pills) of Almond, I suppose.

Builders. In the note of Exchequer business mentioned above (p. 46, last note) I find under the title "Builders:" "A view to be taken of the new and disorderly builders not yet compounded with, and order to be given for the principal rich ones to be called into the Star Chamber, and the rest to be referred to the Commissioners,"—which service is assigned to Mr. Solicitor, Mr. Recorder, and Sir G. More. (Lansd. MSS. 168, p. 318.) This note is crossed out in the MS.

Sr Steph. Proct. From a paper in Sir Julius Cæsar's hand (Lansd. MSS. 168, fo. 309) it appears that on the 28th of June, 1608, Salisbury "gave order for the present prosecution of Sir Stephen Proctor's project against lewd informers," etc. His project was in the form of "a suit preferred to the King's Highness concerning the fines, forfeitures, issues, and amerciaments inquirable before the Justices of the Peace and Clerk of the Market, to bring the revenue better in charge and more plentifully into the King's coffers, and also to reform many grievances in the commonwealth." (Lansd. MSS. 167, fo. 18.) Concerning which see Bacon's "Certificate touching the Projects of Sir Stephen Proctor," further on in this volume.

Stannaryes. Probably some question relating to the jurisdiction of the "Court of the Stannaries," which rested upon custom. A cause of this kind was heard and decided by all the Judges, in Michaelmas Term, 1606. (Coke Inst. iv. 45.) And on the 31st of December, 1607, the Lord Warden of the Stannaries was directed to inform officers in Devon and Cornwall, at assize and general sessions, that the Government matters of the Stannaries and Duchy of Cornwall would be executed by their own officers; and certain of the King's and Prince's Council were appointed at the same time to inform the Lord Chief Justices concerning the maintenance of the privileges of the Stannaries. (S. P. Dom., James I.) The cause that was to come before the Judges at Serjeant's Inn next term (1608) would probably be connected with this proceeding, but I do not know the particulars. The note is crossed out in the MS.

Lambert's booke thereof. William Lambarde was keeper of the rolls and of the records in the Tower during the latter years of Elizabeth. The book here alluded to was, I presume, the 'Archeion, or a Discourse upon the High Courts

To remember the Argum^t^ in ye K. B. in Moyle and Ewars case and to be well præpared in it to turn ye Cowrt.

Qu. of ye D. of Lenox sc. fac.

To remember Daubignyes pat. of 1000^l^ per An. Hamelton.

To remember the cause of the Caussy of Chester and to think of some fitt yssue of y^t^ cause.

So likewise to advise some cowrse for the Counsell of ye Marches and the North, for the Admiralty, Cowrt of requests, and ye Eccles. Jurisdict; qu of limitation by Parlam^t^.

To think of matters against next Parlam^t^ for satisfaction of K. and people in my partic. otherwise wth respect ad Poll è gem. [f. 8, b.]

of Justice in England,"—a posthumous work, published in 1635. The settling and defining of the jurisdictions of Courts was one of the subjects which Bacon was always intending to take in hand. Sir Robert Cotton was probably the possessor of Lambarde's MS.

Moyle and Ewars case. A suit in the Exchequer Chamber between Edward Ewer, plaintiff, and Thomas and John Moyle, defendants, concerning the title of his Ma^ty^'s Manor of Caversfield, Co. Bucks. (See Lansd. MSS. 167, fo. 232.) This note is crossed out in the MS.

Sc. fac. "Scire facias," I suppose: a legal proceeding, connected possibly with a dispute to which the Duke of Lenox was a party, (see S. P. Dom., James I., 21st July and 27th October, 1607), as to the value of certain woods growing upon rectory lands, which had been over-valued. This note is crossed out.

Daubignyes pat. Esme Stuart, Lord D'Aubigny, had a grant of concealed lands entailed on the Crown, to the amount of £1000 per annum, for the surrender of which he received, in February, 1608–9, £18,000. (See S. P. Dom., James I., 23rd August 1606, August (?) 1607, 3rd February 1608–9.) This note relates no doubt to some proceeding connected with this grant; to which legal objections had been made.

Caussy of Chester. Obstructions in the navigation of the river Dee by wears, etc., had been complained of, and on the 29th of August, 1607, commissioners were appointed to inquire into the case, and take the necessary measures for setting it right. On the 16th of December, certain erections, and among them the "cawsey and flood-gates near Dee-bridge," were presented as obstructions which ought to be removed. The Mayor and citizens opposed the decree, pleading that the causey had been there for 500 years and never complained of, and that the decree had been unfairly procured. The case was laid before the Judges 13th February, 1608 (1608–9, I suppose), who appear to have concurred in the objection; and another decree was issued, some time in 1609, for the salvation of the causeway. (See Harl. MSS. 1003.) I think I have seen somewhere a legal opinion of Bacon's upon the case, but I cannot at present find the reference, and this will probably be enough here. This note is crossed out.

Limitation. These were all questions of disputed jurisdiction between the superior and inferior Courts: raised chiefly since Coke was made Chief Justice of the Common Pleas, in the shape of "prohibitions;" and a great evil in Bacon's opinion. Among the Government bills which it was intended to offer to the abortive Parliament of 1614, there was one "for the better administration of justice and the declaration and limitation of the jurisdiction of Courts," which was no doubt in pursuance of the query here set down. And it is a question which we shall meet with again more than once.

Poll è gem. That is, services which would recommend him "in his particular" (*i. e.* personally) both to the King on one side, and the Commons on the other; and otherwise promote the double object ("policy *è gemino*") of replenishing the Exchequer and at the same time contenting the people. (See above, p. 50, note 3.) This note is crossed out.

The next seven notes appear to relate to Bacon's private affairs.

To finish my account with ye exec. and to take the help of some that can skill. Alderm. Garnett. qu.

To lett the land or houses of my wyves lyving now expired upon best profite.

†

Q. of making partition and being well infourmed in it.

To rem. the allowance to be claymed from Cartwrite for the monyes.

Spec. 13.

To goe on wth ye praisem^t^ and distribucion of my lease of Chensfoorth from the Inheritance.

To consider of Tanners account and w^t^ remayneth by measure and to gyve order for the stocking of ye grownds that the increase of rent may begynne.

To send Underwood into Hampshyre.

To procure some fitt note of recusancy from Spiller in recompense.

[f. 9.]

To remember the advantage to be taken of Spillers abating values upon certificates, and to discypher him to my L. Treas. at lest to keep him in awe.

Spec. 13.

†

To remember the renewing of my lease of my chambers and the leaving owt the limitacion.

†

To remember the taking in the grownd beyond ye wall and a lease of the hyther part and to build me a howse thereupon si videbit^r^.

To inquyre of the state of Allingtons howse and to gett it for a rent.

To inquyre of Bath howse.

To inquyre of Wanstead.

To harken to lodging in Southampton howse.

To harken to Cornwallys howse at Highgate.

Note Preston for mony awnswereth to Crosby and Marsons band.

Spiller. See above, p. 47, note 4.

Certificates. Certificates of the true state of Recusants, preliminary to the granting of fines.

beyond the wall. In Gray's Inn, probably. It may have been at this time that he began the building of what Dr. Rawley calls "that elegant pile or structure commonly known by the name of *The Lord Bacon's Lodgings.*" (Works I. 6.) This note is crossed out.

The next five notes (of which the 2nd, 3rd, 4th, and 5th are crossed out) relate apparently to the choice of a house for his London dwelling,—for which, now that he was married, his chambers at Gray's Inn would no longer serve. I do not know anything about any of the houses here mentioned, but I gather from an entry further on that he was living for the present at a place called Fullwoods, from which he afterwards removed to Bath House, wherever that might be. See further on, p. 83, last note.

Q. of Bannyng and match for Bridgett, therein joyning wth Smith, tryeng whether I may use his purse or credite by means of Gr. Joncs. Spec. 13.

Also to usc Sr. Wi. Sidly by Bings band si videbit^r^.

For. Death comes to young mcn and old men goe to death. That is all the difference. [f. 9, b.]

To send messagc of complem^t^ to my La. Dorsett the wydowe.

fo. Princes when in justs triumphes or games of victorye men deservc crownes for their perfourmance, doe not crown them belowe whear they perfourmed but calleth them up. So God by death.

fo. It is not for mc to seek this without your favor but rather to dcsire your favor without it.

Whcn I was last at Gorhambury I was taken much wth my symptome of melancholy and dout of p^r^sent perill, I found it first by occasion of soppe wth sack taken midde meale and it contynued wth me that night and ye next mornyng, but note it cleared and went from me without purge and I turned light and disposed of my self.

fo. My L. Chanc. will not ayd legacies of mariage where the woman is gott away without ye consent of her frendes, and his By woord is, Yf you provyde flesh for your self provyde bread likewise. [f. 10.]

Yf Serg. Ph. should dye or decay as is now spoken, qu. of

Bridgett. His wife's youngest sister, afterwards married to Sir William Soame. (Dixon, 'Story of Bacon's Life,' p. 200.)

For. Form: that is, form of expression. It seems to have been Bacon's habit at all times of his life to set down on paper any neat, terse, lively, or otherwise felicitous turn of expression that occurred to him, or that he met with. He stored them for use, and made collections of them. See a manuscript in the Harleian Collection (No. 7017) entitled *Promus of Formularies and Elegancies;* of which I have given a full account in the 2nd volume of the Literary and Professional Works, p. 189. The "form" here set down was evidently suggested by the thought of sending a message to Lady Dorset, widow of the late Lord Treasurer, who died two or three months before. It appears, however, not to have been of his own invention, for he afterwards included it in his collection of Apophthegms (Lit. and Phil. Works, ii. p. 142, No. 119) as a saying of "one of the Fathers."

To send message, etc. This note is crossed out.

When I was last, etc. This note is crossed out.

legacies of mariage. "That is, I suppose, legacies resting on the woman's marriage. The common form now is 'attaining his age of 21 years, or being a daughter attaining that age, or marrying previously *with consent of parents*, etc.'—or words to that effect." (Note by Mr. R. L. Ellis in the margin of my copy of the Commentarius.)

Serg. Ph. Sir Edward Phelips, I suppose: King's Sergeant-at-Law, 17th May, 1603 (S. P. Dom. Jas. I.); at this time Speaker of the House of Commons; afterwards Master of the Rolls. The "place" here spoken of is probably that of King's Sergeant. This note and the next are crossed out.

raysing Hutton to the place or Hauton or Harys, rather then Nicols, but qu.

To speak to Mr Chanc. to deal wth Nicols as for Assarts, as well as wth Tipper and in like fourme as from my L. Treas^r^.

To digest wth furder care the parts of Proctors projects and to looke up ye last notes.

To harken what becometh of these new impositions upon marchandize.

To acquaint my L. Treas. wth Proct. information towching the deceyt by underpraism^t^ of forfetures and then abating the custome, which may be a practise to overthrow the Ks farme: for abatm^t^ owght not to be intended but whereas the forfeture is of better value then the abatm^t^.

Spec. 13. ✝

[f. 10, b.]

To send once agayn to Stodard.

The Argum^t^ of Elvingstons cause and being provided for it the next Term.

Hutton. Sir Richard Hutton, of Gray's Inn, Sergeant-at-Law in 1603, afterwards one of the Puisne Justices of the Common Pleas.

Hauton. Robert Houghton, of Lincoln's Inn, afterwards one of the Judges of the King's Bench.

Harys. Thomas Harris, of Lincoln's Inn.

Nicols. Augustine Nicols, of the Middle Temple: afterwards one of thePuisne Justices of the Common Pleas.

Assarts. "If any man shall be found in the King's demesnes assarting or doing purpresture, his body shall be forthwith retained." (Stat. of Realm i. 243.) "Assarting" was "plucking up those woods by the roots that are the thickets or coverts of the forest." (Cowell.) Nicolls (another of the name, I fancy, not the sergeant) had a commission probably for the discovery of "assarts," as Tipper had (see above, p. 47, note 3) for concealments.

Proctors projects. See above, p. 54, note 3.

New impositions. See above, p. 46, n. 2. From a paper in Sir Julius Cæsar's hand (Lansd. MSS. 168, p. 307), entitled, "A Journal of the Lord Treasurer's proceedings," etc. from 4th May to 24th July, 1608, I find that on the 6th of June Salisbury "examined the matter of impositions, considered of the grants in lease, and what merchandises might bear impositions, and what not, which gave the preparation to the shortly after ensuing impositions;" and that on the 11th he went to the Custom House, attended by the Chancellor and Barons of the Exchequer, "and there in the assembly of the chief merchants of England assembled from all the principal parts of the land, did make an excellent speech to prove that impositions might lawfully be imposed by sovereign Kings and Princes on all merchandises issuing out or coming into their ports," etc. "Which speech he had no sooner knit up with a particular repetition of impositions now seeming burdensome, and ordered by his Majesty for the ease of his subjects to be lightened, as likewise most things of necessary important use to the poor to be excepted from any imposition, as every man, after some little contradiction, consented to this general imposition new, which will give the most gain to the King of any one day's work done by any Lo. Treasurer since the time of K. Ed. the 3rd." The commodities upon which the impositions were lessened were currants, sugars, and tobacco; those upon which they were increased or newly laid are not named, but the increase of revenue is estimated by Sir Julius at £60,000 a year. (*Id.* fo. 315.) "What became of these new impositions" is a question which we shall hear much of in the next Parliament.

To send once again, etc. This and the three following notes are crossed out.

Elvingstone's cause. Perhaps Lord Balmerinochs. See above, p. 41, n. 5. But it

Qu. of Robertsons cause.

M^d the poynt of ye 4 shyres and to think to settle a cowrse in it; but to listen how ye K. is affected in respect of ye prince, and to make use of my Industry in it towards the Pr.

SERIES LIBRORꝙ CARTACEORŪ UT TUNC VISUM EST; AC SECUNDUM ORDINEM IN QUO NUNC IN THECA REPONUNT^R.

Libri Compositionū 6.

1. Scripta in Theologia.
2. Scripta in Politicis et Moralibus.
3. Scripta in Naturali et Universali philosophia.
4. Scripta in Logicis, Rhetoricis, et philologicis.
5. Orationes, Instrumenta, Acta.
6. Literæ.

Libri Notarꝙ 4. [f. 11.]

7. Notæ omnifariæ ex conceptu proprio exceptæ, sparsim ut occurrunt et cursim ad memoriā tantum, sive Civilis et Contemplator Cursor.
8. Cogitationes digniores sive Notæ omnifariæ ex conceptu proprio per otiū exceptæ, et adhibitâ deliberatione descriptæ; sive Civilis et Contemplator Sedatus.

may have been only some cause of one of his brothers, who was gentleman usher of the Queen's privy chamber, and had grants and suits which may perhaps have come in question.

The 4 shyres. This was the great question of the Marches of Wales, the jurisdiction over which was in dispute between the Provincial Council and the Courts of Westminster. See above, p. 43, n. 4.

Scripta in Politicis et Moralibus. This was probably the manuscript book now in the British Museum (Harl. MSS. 5106), entitled, "The writings of Sir Francis Bacon, Knt., the Kinge's Solicitor Generall: in Moralitie, Policie, and Historie," for an account of which see Lit. and Prof. Works, I. p. 535. It contains only Essays, of which there are thirty-four. The dedicatory letter to Prince Henry, now in Addl. MSS. 4259, appears by the handwriting and the watermark to belong to it.

Scripta in Naturali et Universali Philosophia. This is the title of the volume published by Gruter in 1653; of the contents of which I have given a full account in my preface to the second part of the Philosophical Works, Vol. III. p. 3.

Orationes, Instrumenta, Acta. There is a fragment of a paper-book in the British Museum (Harl. MSS. 6797), with the title "Orationes, Acta, Instrumenta circa res civiles, Fr. Bacon," very fairly written,—I think in Bacon's own hand,—and consisting chiefly of such writings as belong to the present division of his works. But the contents have been so pulled to pieces that it is impossible to say what it originally included.

Literæ. This would, no doubt, be the Register-book of letters from which Dr. Rawley took the principal collection in the Resuscitatio.

9. Notæ omnifariæ ex deprædatione Authorū, sine ordine Intratæ. The principall use of this book is to receyve such parts and passages of Authors as I shall note and underline in the bookes themselves to be wrytten foorth by a servant and so collected into this book.

10. Notæ omnifariæ tam ex deprædatione Authorū quam ex conceptu proprio per Titulos digestæ et ordinatæ. This is meerely a comō place book.

[f. 11, b.] *Libri professoris—v^t. Of the Lawes of England,* 9.

11. 1. Regulæ Juris cum limitationibus et casibus. This is merely a composition of myne own and not a note book.

12. 2. Patrocinia et Actiones causarum. Arguments in Law by me made; This is also a composition; being a book of pleadinges. Such as Marrens in french.

13. 3. Observationes et Comentationes in Jure ex conceptu proprio sparsim intratæ.

14. 4. Observationes et Annotationes in Jure ex libris et Authoribus Juris sparsim intratæ.

15. 5. Digesta in Jure; hoc est Annotationes tam ex conceptu proprio quam ex Authoribus Juris ordinatæ per Titulos: A mear comonplace book of Lawe.

[f. 12.] 16. 6. Exempla Majorum in Jure: conteyning præsid^ts and usages, and courses of Cowrtes and other matter of experience.

17. Lecta sive specialia in Jure; being notes and conceyts of principall use and entred with choyse both for myne own help and hearafter percase to publish.

18. Diariū fori. The book I have wth me to ye Cowrts, to receyve such remembrances as fall owt upon that I hear there.

19. Vulgaria in Jure; being the ordinary matters, rules and

Regulæ Juris, etc. This would be the "Maxims of the Law," for which see Lit. and Prof. Works, ii. p. 309.

Arguments in law by me made. This was, no doubt, the collection of "Arguments in law in certain great and difficult cases," printed by Blackbourn in 1730, from Sloane MSS. 4263: for which see Lit. and Prof. Works, ii. p. 519.

Of the remaining professional books here enumerated I have not been able to find any traces; and from the fact, that the few which have been preserved are rough manuscripts or imperfect editions printed without the superintendence of any responsible editor, I am inclined to suspect that Bacon had collected together those which he wished to preserve, and consigned them to the care of some competent lawyer for that purpose, and that by some accident, the fire at Gray's Inn possibly, they were all lost together.

cases admitted for lawe, to take away shew of being unparfite or unready in comon matters, together wth some abridgm^t^ of speciall cases for myne own memory and all other poyntes for shew and credite of readyness and reading.

Libri concernentes servitiū regis 4. [f. 12, b.]

20. Lib. servitii reg. in Parlamento.
21. Lib. servit. reg. quoad reventiones et comodū.
22. Lib. servitii regis quoad causas justitiæ et forenses.
23. Lib. servit. reg. quoad causas status.

Libri ad Individuū sive ad statū propriū 5.

24. Comentarius Solutus, sive pandecta. This booke receyveth all remembrances touching my private of w^t^ nature soever and hath 2 parts; Diariū and Schedulæ. The one being a journall of w^t^soever occurreth; The other Kalenders or Titles of things of the same nature, for better help of memory and judgm^t^, hearin I make choise of things of most p^r^sent use.

25. Ephemerides particulariū: This conteyneth also all particulars, but yet such as I think woorthy to enter at large, eyther bycause they may contynew long in use, or bycause they may return often, or bycause they may give light to business in tyme to come; whereas the notes of ye Comentarius are breefe and doe passe; This also hath the same 2 parts, Diariū and Schedulæ. [f. 13.]
26. Dispensator, sive rationale status.
27. Faber Auspicatus.

Pandecta. This is no doubt the present book.

Ephemerides Particularium.

This begins a fresh page, at the head of which is written, by way of running title, "Transportat. Jul. 26, 1608." I judge, however, by the handwriting that Bacon had gone on to the middle of the page, finishing the list of his paper books, on the 25th; and that the new morning's work really began at "It seame," etc.; the three next paragraphs being apparently after-thoughts, suggested by a review in the morning of what he had written the night before.

Faber auspicatus. I do not remember to have met with this title anywhere else in Bacon's writings; nor do I feel certain as to the meaning of it; but I suppose it to be the title of a book in which he proposed to set down speculations for the *improvement* of his estate; the 'Dispensator' being to exhibit it as it was.

28. Provincia Geminorꝝ.

These 3 have the same division of Diariū and Schedulæ.

It seame matters of elegancyes and fourmes I referre to the 4 note bookes, therein coupling as well observation of matter, as fourmes of well expressing.

Note that all these bookes have perteyning to them fragm^{ts} and loose papers of like nature with ye bookes, and these likewise are bundled or laid up wth ye bookes.

[f. 13, b.] I think it wilbe more ready and more easy to make these divisions of paper bookes fewer and lesse curious and more sorted to use than to Art: and therefore first to have Comentarius Solutus like a Marchant's wast booke where to enter all maner of remembrance of matter, fourme, business, study, towching my self, service, others, eyther sparsim or in schedules, wthout any maner of restraint; onely this to be divided into 2 bookes; The one transportata ex Comentario vetere, conteyning all maner notes already taken in several paper bookes fitt to be reteyned (except it be such as are reduced to some more parfite fourm) The other Comentarius novus; Then to have another booke like to the marchants leggier booke whearin those thinges (which deserve it) and are sett down in the Comentary

[f. 14.] breefly to be at the first leasure, and while memory can supply it yf it requyre memory be entred to have contynuance. And thirdly owt of that booke to make severall title bookes wherein thinges of a nature may be (by ye labor of a servant in part) entred in order, and under fitt Titles.

Cast. Acquaint. and privateness with my Nep. Edm. Bacon.

Geminorꝝ. Had this word (which may be read either *geminorum* or *gemmorum*) been "gemmarum," I should have taken it to be the title of a book in which he proposed to keep an account of his jewels and valuables of that kind. But unless it be a slip of the pen, I do not know what to make of it.

Cast. Here a line is drawn across the page, to mark the beginning of a new subject. And the next seventeen pages of the MS. relate to the progress of the new philosophy. What *Cast.* stands for, seems doubtful. "Castles," that is castles in the air, which might otherwise be suspected, was a word not then known, I think, in that sense. But "cast" was ordinarily used by Bacon much as "forecast" is used now, for "consider," "devise," "plan with a view to the future," etc. And this is probably what the abbreviation is meant to indicate here.

Edm. My nephew Edmund; eldest son of Sir Nicholas, eldest son of Bacon's father by his first marriage. There is a letter from Edmund Bacon to his uncle in 1616 which seems to show that he was something of a physician and naturalist.

Making much of Russell that depends upon Sr Dav. Murry and by that meanes drawing Sr Dav. and by him and S^{r} Th. Chal. in tyme the prince.

Getting from Russell a collection of phainomena, of surgery, destillations, Minerall tryalls.

The setting on wo. my L of North. and Ralegh, and therefore Haryott, themselves being already inclined to experim^{ts}.

Acquainting my self with Poe as for my health and by him learnyng ye experim^{ts} wch he hath of phisike and gayning entrance into the inner of some great persons.

Seing and tryeng w^{r} the B. of Canterb. may not be affected in it, being single and glorious, and beleeving the sense. [f. 14, b.]

Not desisting to drawe in the Bp Aund. being single, rych, sickly, a professor to some experim^{ts}. this after the table of Mocion or some other in part sett in forwardness. ✝

Qu. of phisicions to be gayned. The lykest is Paddy, D. Hamond.

Russell. Probably Thomas Russell, who was engaged about this time, with the sanction of the Government, in experiments for separating silver from the lead ore. See S. P. Dom. James I., Aug. 13, Dec. 11, Dec. 14. 1608; July 29, 1610.

Murry. Sir David Murray, Keeper of the Prince's Privy Purse. (S. P. Dom. James I., 8 July, 1608.)

S^{r} Th. Chal. Sir Thomas Chaloner (concerning whom see vol. iii. c. ii. § 4), Governor of Prince Henry's Household, and afterwards his Chamberlain; he was the author of a treatise (1584) on the virtue of nitre; and in 1609, at the trial of Phineas Pette for a failure in ship-building, he was selected, along with the Gresham lecturer in geometry, to decide a geometrical question which was disputed (Nicholls, i. 204; ii. 252).

my L. of North. My Lord of Northumberland; at this time prisoner in the Tower, upon a sentence in the Starchamber, for some indirect complicity in the Gunpowder Plot.

Haryott. Thomas Harriot, the great mathematician, author of 'Artis Analyticæ Praxis.' He had for many years been intimate with Sir Walter Ralegh, whom he instructed in mathematics, and by whom he had been sent to Virginia. He was also a pensioner of the Earl of Northumberland.

Poe. Poe was one of the physicians who attended Salisbury in his last illness. (Nicholls, ii. 447.)

B. of Canterb. Richard Bancroft, Archbishop of Canterbury, and lately chosen Chancellor of the University of Oxford, upon the death of Lord Treasurer Dorset.

Bp. Aund. The reading here is doubtful, but I think Launcelot Andrews, Bacon's old friend and "inquisitor," must be meant. He was at this time Bishop of Chichester, much respected by the King, and his favourite preacher.

the table of mocion. Concerning which see my preface to the *Inquisitio legitima de Motu* (vol. iii. p. 623).

Paddy. Sir William Paddy, physician to the King.

D. Hamond. Dr. John Hammond, physician in ordinary to the King, and afterwards to Prince Henry.

Q. of learned men beyond the seas to be made, and harkenyng who they be that may be so inclined.

The finishing the 3 Tables de Motu, de Calore et frigore, dc sono.

The finishing of the Aphorismes, Clavis interpretationis, and then setting foorth ye book. qu. to begynne first in france to print it; yf hear then w^t^ dedication of advantage to ye woork.

Proceeding wth ye translation of my book of Advancem^t^ of learnyng; harkenyng to some other yf playfere should faile.

Imparting my Cogitata et Visa wth choyse, ut videbit^r^.

[f. 15.] Ordinary discours of plus ultra in Sciences, as well the intellectuall globe as the materiall, illustrated by discouvery in o^r^ Age.

Discoursing skornfully of the philosophy of the græcians wth some better respect to ye Aegiptians, Persians, Caldes, and the utmost antiquity and the mysteries of the poets.

Comparing the case to that w^h^ lyvy sayeth of Alexander, Nil aliud q^m^ bene ausus vana contemnere.

Qu. of an oration ad filios, delightfull, sublime, and mixt

The 3 Tables. See Phil. Works, vol. iii. pp. 623, 643, 655.

Aphorismes. Perhaps the paper entitled *Aphorismi et consilia de auxiliis mentis et accensione luminis naturalis* (Phil. Works, iii. 793), which appears to be one of the earliest rudimentary forms of the first book of the 'Novum Organum.' The *Clavis Interpretationis* was the name which he first thought of giving to the 'Novum Organum' itself.

In france. With regard to his probable motive for beginning, or thinking of beginning, to print the work in France, see my preface to the third part of the Philosophical Works, vol. iii. p. 171.

playfere. Dr. Playfer, Margaret Professor of Divinity at Cambridge, concerning whom and his translation of the 'Advancement of Learning,' see vol. iii. ch. viii. § 5.

Cogitata et Visa. For the *Cogitata et Visa*, see Phil. Works, vol. iii. p. 589; where I take this opportunity of requesting the reader to correct an error. In the third line of my preface to that work I have spoken of Bacon's letter to Sir Thomas Bodley as bearing the date 1607. I find that this date (though probably correct) is a modern addition, inferred probably from the date of Bodley's answer. None of the old copies have any date. For "from the date (1607) of a letter," etc., read therefore "from a letter," etc.

This and the four preceding paragraphs are crossed through in the MS.

ordinary discours . . . in our age. See the first book of the 'Novum Organum,' or any of the early sketches of it.

skornfully. See my preface to the *Temporis partus masculus* (Phil. Works, vol. iii. p. 523), where I have ventured upon a speculation, suggested originally by this note.

Comparing the case, etc. See Valerius Terminus, Phil. Works, vol. iii. p. 224.

Qu. of an oration. See the *Redargutio Philosophiarum* (*ib.* p. 557), an oration exactly answering this description, and which probably grew out of this very query. The words in italic are underlined in the MS.

wth elegancy, affection, *novelty of conceyt and yet sensible*, and Superstition.

To consyder w^t^ opynions are fitt to nourish tanquam Ansæ and so to grift the new upon the old, ut religiones solent.

Ordinary Cours of Incompetency of reason for naturall philosophy and invention of woorks, A prety devise to buy and sell w^th^, Aditus nō nisi sub persona infantis.

To procure an History of Marvailes, Historia naturæ errantis or variantis, to be compiled wth Judgm^t^ and without credulity and all the popular errors detected; Viscentius, Jubart, Plyny, Hystorie of all sorts for matters strange in nature told in serie temporū heare and there inter cetera; Pancarolus, de reb. memorabilibus, divers authores. [f. 15, b.]

To procure an History mechanique to be compiled wth care and diligence (and to professe it that is of the experim^ts^ and observations of all Mechanicall Arts. The places or thinges to be inquyred are; first the materialls, and their quantities and proportions; Next the Instrum^ts^ and Engins requesite; then the use and adoperation of every Instrum^t^; then the woork it self and all the pro-

To consyder, etc. In my preface to the *De Sapientia Veterum* (Lit. and Prof. Works, i. p. 607), I have observed that the object of that work (published in 1609) was probably to obtain a more favourable hearing for certain philosophical doctrines of Bacon's own (upon which point, see Phil. Works, iii. p. 174); and it seems to me not improbable that the question here suggested for consideration led him to throw his speculations into that popular form.

*to buy and sell w^th^*. As enhancing, I suppose, the price of the wares offered, by representing them as the best that could be hoped for. "Cours" is the word in the MS., but I think he must have meant to write "discourse."

aditus non nisi, etc. A text often cited by Bacon in this sense and connexion. In the first chapter of the *Valerius Terminus*, for instance—perhaps the fullest and most finished exposition of his views on "the limits and end of knowledge"—he concludes, "Nay it is a point fit and necessary in the front and beginning of this work without hesitation or reservation to be professed, that it is no less true in this human kingdom of knowledge than in God's kingdom of heaven, that no man shall enter into it except he become first as a little child." (Phil. Works, iii. 224.)

Viscentius. Vincentius Bellovacensis, I presume; author of 'Speculum Majus,' a work which seems to have contained everything that was known in the thirteenth century.

Jubart. Probably Laurens Joubert, a learned physician of the fifteenth century; author, among other things, of 'Paradoxa Medica,' a title which would be very attractive to Bacon.

Pancarolus. Pancirollo, an Italian writer (1523–1599), professor of civil law, author, among other things, of 'Rerum Memorabilium jam olim deperditarum et contra recens atque ingeniose inventarum.'

Concerning the nature and object of this 'History of Marvels' and the 'History Mechanique' which follows, see above, p. 25.

cesse thereof wth the tymes and seasons of doing every part thereof. Then the Errors wch may be comytted, and agayn those things wch conduce to make the woorke in more perfection. Then all observacions, Axiomes, directions. Lastly all things collaterall incid^t^ or intervenient.

[f. 16.] Layeng for a place to cōmand wytts and pennes. Westminster, Eton, Wynchester, Spec. Trinity College in Cambridg, St Jhons in Camb. Maudlin College in Oxford. and bespeaking this betymes, wth ye K. my L. Archb. my L. Treasorer.

Acquaint wth Sr Josi. Bodly by Mr Jones.

Taking a greater confidence and Authority in discourses of this nature, tanquā sui certus et de alto despiciens.

Qu. of young schollars in ye Universities. *It must be the postnati.*

Gyving pensions to 4 for search to compile the 2 Histories ut suprà. Foundac. of a college for Inventors. 2 Galeries wth statuas for Inventors past and spaces or Bases for Inventors to come And a Library and an Inginary.

Qu. of the Order and Discipline, to be mixt wth some poynts popular to invite many to contribute and joyne.

Qu. of the rules and p^r^scripts of their studyes and inquyries.

Allowance for travailing; Allowance for experim^ts^. Intelligence and correspondence wth ye universities abroad.

[f. 16, b.] Qu. of the Maner and præscripts touching Secrecy, tradition, and publication.

My Ld. Archb. Archbishop Bancroft was now Chancellor of the University of Oxford, Lord Treasurer Salisbury Chancellor of the University of Cambridge.

Sr Josi Bodley. Sir Josias Bodley had been sent into Ireland in the preceding April to superintend the erection of fortifications at Cork, Limerick, Waterford, Kinsale, etc. (See Abstracts of the Privy Council Registers, 13 April, 1608. Add. MSS. 11,402.)

Taking a greater confidence, etc. See my preface to the *Temporis Partus Masculus*, Phil. Works, iii. p. 525.

postnati. The words in italic are underlined in the MS. The allusion is, of course, to the *antenati* and *postnati* of Scotland, whose several pretensions had been so long under discussion in Parliament and the Courts. But the meaning is that Bacon had found little encouragement in his enterprise from the learned of his own generation, and concluded that for recipients of new ideas he must look to young minds.

Secrecy, tradition, and publication. Concerning Bacon's views on this point about this time, see Mr. Ellis's preface to the 'Novum Organum' (Phil. Works, i. 85), together with my own remarks in note B. (p. 107), where all the evidence is collected and discussed.

Qu. of Remooves and Expulsions in case w^th^in a tyme some Invention woorthy be not produced. And likewise qu. of the honors and Rewards for Inventions.

Vaults, fornaces, Tarraces for Insolacion; woork houses of all sorts.

Endevor to abase the price of professory sciences and to bring in æstimation Philosophy or Universality—name and thing. ✝

INQUISITIO LEGITIMA.

Sectio Nov. ordinis. op.

1. Carta electionis et præoptionis.
2. Sylva sive Carta Matcr.
3. Meta posita sive Carta terminans.
4. Loci sive Carta Articulorū.
5. Vena exterior sive Carta divisionis primæ.

ap. s^a^.

6. Carta assignationis vel collocationis.

Sectio rer^p^.

7. 1. Carta Historiæ ordinatæ ad divisiones primas, et reliquos articulos. [f. 17.]

8. 2. Carta Amanuensis sive super Instantias.

Sectio Lucis.

9. 1. Carta Analysis motus compositi, vel de spelling.
10. 2. Vena interior, sive Carta divisionis secundæ.
11. 3. Carta observationis, sive axiomatis.
12. 4. Carta humana optativa.
13. 5. Carta humana activa, sive practica.
14. 6. Carta Anticipationis, sive Interpretationis sylvestris.
15. 7. Carta Indicationis, sive ad cartas novellas.

Nota Interpretationem legitimā non fieri, nec clavem Interpretationis ad-

Universality. Compare the eighth chapter of *Valerius Terminus*, Phil. Works, iii. p. 228.

Inquisitio legitima. He had written first *Inquisitio legitima de Motu.* Then he struck out *de Motu;* confining himself in the first instance to a scheme of legitimate inquiry in general.

ap. sa. Probably *apparentia secunda.* Compare p. 70. "*Carta divisionis primæ, sive ad apparentiam primam.*"

operari, usque ad reordinationes et cartas novellas finitas, ut duæ sint Machinæ Intellectus, una Inferior quā descripsimus, altera Superior quæ est Novellarū.

Inquisitio Legitima de Motu.

[f. 17, b.]

Cart. Electionis.

Quieta rer$ principia sermones spectant; moventia autem et motus ipse, Opera.

Motuum genera bene discreta et descripta, Protei vincula.

Meta posita.

Quod animo metimur; Motus; Exactè inspicienti nō alius quam localis; sensibilis scilicet et minutus;

✝ qu. Etiam quies comprehenditur; ex natura propria aut per accidens, ex libratione vel cohibitione motus.

3 motuum genera, inperceptibilia; ob tarditatem, ut in digito horologii, ob minutias, ut liquor seu aqua corrumpitur aut congelat^{r} &c.; ob tenuitatem corporis, ut omnifariæ aëris, venti, spiritus, quæ nō cernunt^{r} ac subtiliores eor$ motus nullo sensu immediate comprehendunt^{r}, scd tantū per pensa et effectus.

[f. 18.] Motus et naturas per globos nō destinguimus ut alia sit ratio coelestiū, alia sublunariū: popularis ratio ista videt^{r} et infirma; Nam etiam coelestia mutantur in magnis, ut patet in cometis coordinatis situ suo cū stellis fixis: In parvis si moventur tamen sensum nostrū latent; Nam quæ etiam in superficie terræ fiunt mutationes de circulo Lunæ, si oculus ibi positus esset, discerni nequirent; Rursus eadem æternitas et motus regularitas terræ competit; Nam in profunditate terræ par æternitas ac in Coelo, et vident^{r} variationes et mutationes et turbæ tantū in confiniis regnor$ istorū fieri; scilicet in superficie et crusta terræ, et superficie et confiniis coeli ut in aëris regione media quā vocant; Etiam fluxus maris tam regularis fere est quam motus lunæ.

[f. 18, b.] De motu autem animali, et de eo motu qui ad sensum per-

Novellarū. This appears to have been the conclusion of the second day's work. The next page is headed *Transportat. Jul.* 27, 1608: in which he begins an inquiry, according to the scheme just set down, concerning the particular subject of *motion*. For his motive in beginning with this subject, and what the attempt ended in, see my preface to the fragment entitled *Filum Labyrinthi sive Inquisitio legitima de Motu* (Phil. Works, iii. 623), and to the *De Interpretatione Naturæ Proœmium* (*ib.* p. 514).

agendū requiritur, non inquirimus, sed eū sui juris facimus et emancipamus ut seorsim et principaliter inquiratur.

Motus tamen animales quatenus ad cohibitionem, aut participationem manifestam motuū coeterorum comprehendimus, ut saltum, sanguinis per venas ascensionem, etc.

Motus autem impressionis sive signaturæ quæ incorporeæ sunt tamen ob spatiorū sive locorę Mutationes comprehendimus, ut in sonis, visibilibus, attractionibus sive coitionibus; Calorem tamen et frigus omnino emancipamus ob dignitatem et multiplicem usum, et de illis seorsim et principaliter inquiri volumus.

Nec motū generationis vitalis expedimus, sive assimilationem magnā, sed et hunc emancipamus.

Carta Articulorę. [f. 19.]

First to inquire the severall kyndes or diversities of mocion.

Then what bodyes or subjects are susceptible of every kynd and what not, and what have them in strength and what more obscurely, and what have them more familiarly and what more rarely.

Then the comparisons of the forces of every mocion, and wch is prædominant one over the other, and wch is absolute and never falsificd, yf any such be; And how they evade and shift ech nature of mocion to doe his part.

Nodi et globi motuū, and how they concurre and how they succeed and interchaung in things most frequent.

The tymes and moments wherein mocions woork, and which is the more swift and wch the more slowe, and whear they take their beginninges and where they leave.

The convenience or disconvenience wch mocion hath wth heat and tenuity, and how these three meete, sever, or vary.

The power in mocions corporall, of agitation, fier, tyme.

The effects of mocion, and w^t^ qualities it induceth respectivè to every mocion.

The force of union in mocions, and the Analogy thereof.[3]

[3] *And how they evade, etc.* The last clause added in the margin.

nodi et globi. In the margin of the MS., opposite this and the three next paragraphs, are the following notes; written apparently at another time, and without any special reference to the particular paragraphs against which they happen to stand. They are written consecutively, one under the other, with strokes of the pen between to separate them. "The Instrum^ts^ and efficients. Subjectū quasi efficiens generale, Efficiens tanquā subjectū proximū.—Periodi et processus motuum.—Spatia, orbis virtutis."

The power, etc. This paragraph appears to have been added at another time.

[f. 19, b.] *Cart. divisionis primæ, sive ad apparientiā primam.*

Agitatio, sive motus absque termino, sive Motus se exercens.

Latio, sive Motus ad terminū, sive Motus Itinerans.

Agitationis species duæ: Agitatio placida; Agitatio inquieta.

Agitatio placida est Motus Conversionis, sive *curulis*.

Agitatio inquieta duplex: Agitatio relevationis et tentationis; Agitatio trepidationis.

Lationis species duæ: Latio manifesta, sive Motus localis; latio occulta sive Motus corporalis.

Motus localis tres sunt species: Motus respectu spatioꝛ; Motus respectu situs partiū; Motus respectu alterius.

Motus respectu spatioꝛ habet 4 species.

Motus Nexus, sive ne detur vacuū.

Motus plagæ, sive Mechanicus, sive ne fiat penetratio dimensionū.

[f. 20.] Motus libertatis, sive ad sphærā veterem, sive ad convenientiā; qui est duplex. Motus a violenta condensatione ad convenientiam raritatis; et Motus a violenta rarefactione ad convenientiā densitatis.

Motus Hyles migrantis, sive ad sphærā novā; qui etiā est duplex. Motus Hyles migrantis ad sphærā novā majorem; Motus hyles migrantis ad sphæram novā minorem.

Motus respectu situs partiū, est simplex, et est Motus Congruitatis sive disponens.

Motus respectu alterius habet 4 species.

Motus ad Massā, sive Congregationis Major, sive Panegyricus sive fœderis generalis.

Motus Amicitiæ, sive Congregationis minor; sive sympathiæ, sive foederis sanctioris.

Motus disgregationis Major, sive fugæ.

Motus disgregationis Minor, sive Antipathiæ.

[f. 20, b.] Motus Corporalis habet species sequentes, numero 17.

Motus Subsistentiæ, sive ne detur nihilū.

Isti 3 motus pertin[t] ad conservationem in statu.

Motus Integritatis, sive ne admittatur corpus exterū; sive amplexus veteris.

Motus Cohibitionis, sive Regius, sive ne admittatur nova forma.

Motus maturationis sive exaltationis et perfectionis naturæ suæ, sive in potius. — Iste motus tendit ad perfectionem.

Motus contractionis, sive hyles minorans interius, sive restrictionis (A l'Italienne. — Isti 4 mot' p'supponunt manentiã corporis in toto, absque jactura et emissione, licet mixtura et ordinatio partiũ mutetur.

Motus relaxationis sive hyles majorans exterius, sive fusionis.

Motus separationis in se, sive factionis, sive congregans homogenea et disgregans heterogenea, sive unionis per partes.

Motus separationis in aliud, sive exilii, sive exituræ aut emissionis. — Isti 3 mot' pertin[t] ad separationem.

Motus separationis altæ et magnæ, sive Anarchiæ, sive putrefactionis, sive separationis in pure, vel radicalis.

Motus applicationis et resistentiæ secundũ fibras, sive texturã et ordinem earũ. — [f. 21.] Isti 3 mot' pertinent ad corporũ applicationes.

Motus tenacitatis, sive adhærentiæ, sive primi tactus aut amplexus novi.

Motus receptionis in se, sive Mistionis, sive incorporationis, sive Indentatus, sive unionis per totũ.

Motus generationis Jovialis, sive assimilationis, sive generationis similis sui fixæ et manentis. — Isti tres motus p'tinent ad propagationem speciei.

Motus generationis Saturniæ, sive signaturæ aut impressionis, sive generationis similis sui momentaneæ vel transeuntis.

Motus generationis fictæ, sive excitationis et imitationis.

Motus metamorphoseos placidæ, sive novæ formæ procedentis absque dissolutione. — Isti 2 motus sunt mutationis majoris.

Motus metamorphoseos destruentis, sive novæ formæ a corruptione, sive reordinationis et triumviratus, sive rudimenti generationis vitalis.

A l'Italienne. This is what the letters look likest; but can hardly be what they were meant for.

Isti 3 . . . *separationem.* So in MS.

[f. 21, b.] *Carta assignationis.*

Fractionem corporū, sive resistentiā contra fractionem et separationem, assignamus sub Motu Integritatis.

Modum tamen fractionis in nonnullis aut prohibitionis fractionis in quo situs partiū valet, assignamus sub motu applicationis primo.

Reductionem ad statum quo, as when urine or blowd is broken and by fier reduced, assignamus sub Motu cohibitionis, vel regio.

Conservationem, Mansionem in statu, Non exituram Spiritus in corporibus porosis, sive terris siccis assignamus sub Motu Regio.

All ripenings, coction, assation, the gathering perfection of wynes, beers, syders, &c. by age and tyme, assignamus sub Motu Maturationis.

Etiam multiplicationem virtutis per unionem quantitatis, vel conservationem status per unionem quantitatis, assignamus sub Motu Maturationis vel exaltationis.

[f. 22.] Liquefactionem, Mollificationem, liquiditatem, consistentiā, duritiem, indurationem, contractionem, or closeness of parts, Ampliacionem, Congelationem, constipationem, assignamus sub motu hyles interiore.

Residence, flowring, woorking owt a skymme, defecacion, refynyng, cleering and lees, dissolving or breaking as in blowde or urine, Coagulation or turnyng to Curdes or whaye, hæc assignamus sub motu separationis in se.

Etiam disordinationem partiū, as when pears rowled gett a sweetness, when roses crushed alter there smell, hæc assignamus Motui separationis in se.

Evaporationem, exhalationem, emissionē, consumptionem, diminutionem, arefactionem, assignamus sub Motu separationis in aliud.

Corruptionem, rust, mould, assignamus motui separationis altæ.

[f. 22, b.] Motum soliditatis sive expulsionis corporis dissimilis, et attractionem similis, assignamus sub motu mistionis.

Exuctionem, depastionem, deprædationem, Intumescentiam, Inteneratiouem, Augmentationem, sine vegetatione seu accretionem, assignamus Motui generationis Jovis.

Fermentationem et infectionem assignamus generationis fictæ.

Destillationem, sublimationem, assignamus Motui metamorphoseos placidæ.

turnyng into woormes, flies, etc., assignamus Motui triumviratus.

Poll.

The bring. ye K. low by pov. and empt. Cof.

The revolt or troub. first in Sco. for till y^t^ be no dang. of Eng. discont. in dowt of a warre frō thence.

The greatness of some part. subj.

pop. Salsb. Accept. to Lo. h. of parl. qu.

The great. of the priv. Co^l^.

The ord. of sitt. and manage of thinges in Co. as a state, that ye bowle may goe alone. [f. 23.]

The greatn. of the lower hows in parlam^t^.

Qu. of the off of Lieut. Cunst:

The abs^ce^ of the P. yf he come to ye Cr. by warres.

Confederacy and more straight Amity wth ye low Countries.

Limiting all Jurisdictions. More regular.

Qu. w^t^ use of the presbyt.

Qu. w^t^ use may be made of ye greatn. of ye Nob. of Scotl.

Bookes in cōmendac. of Mon. mixt or Aristoc.

Perswad. the K. in glory, Aurea condet sæcula.

generationis fictæ. So in MS.: *Motui* having probably been omitted.

triumviratus. Here a line is drawn across the page; a new subject begins with a new pen and apparently fresh fingers; and the next page is headed *Transportat. Jul.* 28, 1608. I conclude therefore that the third day's work ended here, and that what follows was begun the next morning.

Poll. Policy. Of the notes under this head I have already in my introduction explained the general import, as far as I could collect it. But the abbreviations are here so many and so perplexing, and yet the meaning would be so well worth having if we could get at it, that a full interpretation (as far as conjecture can supply it) will probably be found convenient; and being thus placed side by side with the original, it will assist other conjecturers without the danger of misleading them. The words within brackets are my own commentary; the rest are what I suppose Bacon intended.

"The bringing the King low by poverty and empty coffers.

"The revolt or trouble first in Scotland: for till that be, no danger of English discontent: in doubt of a war from thence." [It is always interesting to compare the anticipations of the philosophic statesman looking forward, with the reflexions of the philosophic historian looking back. This opinion was recorded by Bacon in 1608, but never publicly uttered. David Hume, after describing the causes and progress of English discontent in 1637, and showing that they were not sufficient to provoke an outbreak, proceeds thus: "It seemed probable, therefore, that affairs might long have continued on the same footing in England, had it not been for the neighbourhood of Scotland; a country more turbulent, and less disposed

New lawes to be compounded and collected; Lawgyver perpetuus princeps.

Restor. the Church to ye trew limits of Authority since H. 8^ths^ confusion.

Choyse of persons act. and in their nat. stir. and assure them.

Adv^t^ to a gen. Mem. of Aff. Succ. Salsb. and amuz the K and P. wth pasty. and glory.

It is like S. hath some furd. intent. upw. to wyn him to the po. . . of pol. Surdis modis. cave aliter.

Finishing my treat. of ye great. of Br. wth aspect ad pol.

Chem. pop. Nav. Yelv. Sans. Harb. Cro / Barkly.

[f. 23, b.] The fairest, w^th^out dis. or per. is the gener. perswad. to K and peop. and cours. of infusing every whear the foundat. in this Ile of a Mon. in ye west, as an apt seat state people for it; so cyvylizing Ireland, furder coloniz. the wild of Scotl. Annexing ye Lowe Countries.

Yf any thing be questio. touch. Pol. to be turned upon ye Amplia-cion of a Mon. in ye Royalty.

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to submission and obedience. *It was thence the commotion first arose:* and it is, therefore, time for us to return thither, and to give an account of the state of affairs in that kingdom." Hist. of Eng. c. 53.]

"The greatness of some particular subjects. pop. [popularity? *i.e.* opposition to the Crown.] Salisbury acceptable to the Lower House of Parliament. qu.

"The greatness of the Privy Council.

"The order of sitting and manage of things in Council as a state, that the bowl may go alone.

"The greatness of the Lower House in Parliament.

"Qu. of the office of Lieutenant Constable.

"The absence of the Prince if he come to the Crown by wars.

"Confederacy and more strait amity with the Low Countries.

"Limiting all Jurisdictions—more regularity.

"Qu. what use of the presbytery.

"Qu. what use may be made of the greatness of the nobility of Scotland.

"Books in commendation of monarchy mixed, or aristocracy.

"Persuade the K. in glory, aurea condet sæcula.

"New laws to be compounded and collected: Lawgiver perpetuus princeps.

"Restoring the Church to the true limits of authority, since Henry the 8th confusion.

"Choice of persons active and in their nature stirring, and assure them.

"Advertisement to a general memorial of affairs [?]. Succeed Salisbury, and amuse the King and Prince with pastime and glory." [I am not at all satisfied that I have interpreted the first sentence rightly: but Bacon did, after Salisbury's death, distinctly intimate to the King his readiness to be "removed to business of State," if his services were wanted in that department rather than in his profession.]

"It is like Salisbury hath some furder intention upwards: To win him to the point of policy. Surdis modis, cave aliter.

"Finishing my treatise of the Greatness of Britain with aspect ad politiam.

"Chem (qu. Cheut.), Popham, Neville, Yelverton, Sandys, Herbert, Crofts, Barkley.

[Sir Walter Chute: member for Whitchurch (Southamptonshire), in the Parliament of 1614, and one of the 'undertakers,' who got into trouble for the

fo. In rege beatissimum non cogi miserrimum non suaderi.

fo. Liberius peccat qui libenter ignorat.

fo. Your wytness is a reed shaken wth ye wynd / × / yet so as when the reed standes upright it is for us, and when it bendes it is for yow.

Of great men it is best yf a man speak in deteriorē partē rather to towch their extern by fashons (wch nevertheless may induce men to think what is, then their dispraises, natures or conditions, and their natures and conditions much rather then their actions, for the one is but opynions the other is a kynd of Accusacion.

Qu. W^t^ is the direction towching recusants goodes, w^r^ the forfeture be wholy dispensed wth or passe by graunt and is compounded for. [f. 24.]

Q. W^t^ order and direction is towching ye poynt of Law in pleading excomun. to recusants.

Making some collection touching ye authority of the pr. Councell, as it appeareth in owr bookes of Lawe, and acquainting my L. Chancellor and L. Treasorer therew^th^ obiter.

Making other collections and shewing them obiter, spec. fitt for an Att. and to make them think they shall find an alteracion to their contentm^t^ over that which now is.

part he took. Sir Francis Popham, member for Wilts in James's first Parliament, which was still in existence. Sir Henry Neville (I think) member for Lewes. Henry Yelverton, member for Northampton. Sir Edwin Sandys (a distinguished member of that Parliament, see Book III. c. 5, § 5, though not named in Willis's list). Sir William Herbert, member for Montgomery County. Sir Herbert Crofts, member for co. Hereford: a strong opponent of the jurisdiction of the Council of the Marches over the 4 shires. Sir Maurice Berkley, member for Minehead, in Somersetshire:—all prominent members of the Lower House, inclining to the popular side, but good men, and worth conciliating. We shall find hereafter four out of the eight referred to by Bacon as having belonged to the opposition party in this Parliament.]

"The fairest, without disorder or peril, is the general persuading to King and people, and course of infusing everywhere the foundation in this isle of a monarchy in the west, as an apt seat, state, people for it; so civilizing Ireland, further colonizing the wild of Scotland. Annexing the Low Countries.

"If anything be questioned touching policy, to be turned upon the ampliation of a Monarchy in the Royalty."

With regard to these two last notes, see the introduction to this chapter; and compare the penultimate paragraph of Bacon's 'Speech on General Naturalization' (Vol. III. ch. viii. § 6); my remarks in the last section of the first chapter of this volume; and my preface to the fragment on the true Greatness of Britain (Lit. and Prof. Works, vol. ii. p. 39).

Here again a line is drawn across the page, to mark the entrance upon other matters; and the notes which follow are for the most part intelligible without any commentary. "*Fo.*" as I have already explained, stands for *form*, that is, form of expression. Whether these are "ex conceptu proprio," or "ex deprædatione authorum," I cannot say.

recusants. These two queries are answered further on; see p. 91.

✝ Still to consider how to make use both in state and for my particular of my project of Amendm^t of Lawes.

fo. I have put yow in comission / × / gladd to be putt in a comiss^n to doe you service.

[f. 24, b.] ✝ To consyder of the matter of Annexacion how it stands and what is fitt to be advised.

✝ To parfite Pembertons assurance from his sonne.

To give directions of a plott to be made to turn ye pond yard into a place of pleasure, and to speak of them to my L. of Salsbury.

The grownd to be inclosed square wth a bricke wall, and frute trees plashed upon it; on the owt side of it to sett fayre straite byrches on 2 sides and lyme trees on 2 sides, some x foote distante from the wall, so that the wall may hide most of the shaft of the tree and onely the tufts appear above.

From ye wall to have a waulk of some 25 foote on a higher levell.

Under that waulke some 4 foote to have a fyne littell stream rune upon gravell and fyne peppell to be putt into ye bottome, of a yard and an half over, wch shall make the whole residue of the grownd an Iland; the banque to be turfed and kept cutt; the banq I mean of the ascent to ye upper waulk: no hedg hear but some fyne standerds well kept.

[f. 25.] Within that stream upon a lower levell to make another waulk of 25 foote, the border to be sett wth flagges of all sortes of flower de Luces and lylyes.

All the grownd within this waulk to be cast into a laque, wth a fayre raile wth Images gilt rownd about it and some low flowres specially violetts and strawberies along qu.

Then a fayre hedg of Tymber woorke till it towch the water, wth some glasses colored hear and there for the ey.

In ye Middle of the laque where the howse now stands to make an Iland of 100 broad; An in the Middle thereof to build a howse for freshnes with an upper galery open upon the water, a tarace above that, and a supping roome

Annexation. Annexation of Crown lands, I presume.

pond-yard. At Gorhambury; for a description of which, when Aubrey saw it, see his 'Lives of Eminent Men,' ii. p. 231.

open under that; a dynyng roome, a bedd chamber, a Cabanett, and a Roome for Musike, a garden; In this Grownd to make one waulk between trees; The galeries to cost Northwards; Nothing to be planted hear but of choyse.

leave [f. 25, b.]
To sett in fitt places Ilands more.

An Iland where the fayre hornbeam standes with a stand in it and seats under Neath.

An Iland with Rock.

An Iland with a Grott.

An Iland Mounted wth flowres in ascents.

An Iland paved and with picture.

Every of the Ilands to have a fayre Image to keepe it, Tryten or Nymph etc.

An Iland wth an arbor of Musk roses sett all wth double violetts for sent in Autumn, some gilovers wch likewise dispers sent.

A fayre bridg to ye Middle great Iland onely, ye rest by bote.

To remember the poynt of husbandry of stubbing some wood at Praye.

The making of the fayre waulk.

The appointing more ground to lye laye then doth, specially the feeld at comyng in præsently.

The redemptions to be consydered of Preston, Crosseby, Kentish, [f. 26.]
Axtell, Briston, Spenser, Fleetwood, Trott, Bracye, Marsō. ✝

Incouragem^t^ of Crosseby wth great woordes (Such a Franklyne.

Testament . sor . Nevellæ.

Mannyng foorth a phisic . or practiser thearin wth receyts, rare and speciall, and delicacies graynes etc. and other things pleasing humor. ✝

Applieng my self to be inward wth my La. Dorsett, per Champners ad utilit. testam.

laye. So the word is read: I cannot explain it. I had thought it might be 'large.'

Praye. Pray or Pre wood; a wood on the rising ground opposite the house.

Nevellæ. One of Bacon's half sisters was formerly Lady Neville; but as she was now the widow of Sir William Peryam, it seems unlikely that he would call her by her former name. Otherwise *testamentum sororis Nevellæ* would make very good sense.

Ad utilit. testam. See introductory remarks, p. 35.

MEMORIÆ VALETUDINIS.

The taking of a glyster bedwards putteth down more swiftly and seameth to woork upon viscous humors more then at other tymes, but it filleth ye head; It is the freest for business.

2 glisters the one at 4 of clock the other bedward agree well, for that the one styrreth the more viscous humor and the other carieth it away.

The contynuance of my familiar cooling glyster 4 or 5 daies without intermission I find to be of good success: But yet for the tyme it maketh me afterwards ymediately fynd a greater heat of body and distast of symptome (The like doth any contynued diett or just purging) wch I judg doth arise bycause the Adust humor is styrred but sticketh close, and bycause the moysture of humors adjacent being washed away it rayneth the more: And bycause some of the viscous humors styrred but not drawn away rest more in ye passages.

[f. 26, b.] I fynd the sleight anoynting of my sydes sub hypochondriis and the region of my belly under the Navell wth some oyle appropriate to corroborate the Nerfes and Membranous parts, as Ol. Castorei, Ol. Mastic, etc. to gyve me eas and p^r^sent sens of openyng and relaxacion what tyme I fynd my self so stopped sub hypochondriis as I cannot have patience to sitt still, but must styrre or alter posture upon a naturall mocion as I judg to expell or losen; And the cause hearof I take to be bycause the stopping whereof I complaine cometh not onely of the viscousnesse of the humor or straightness of passage, but also of a lazyness or slacknesse in the part, wch intention this remedy helpeth.

I fynd any manner of anoyntm^t^ bedwards to make the humors as I judg more vaporous and to offend the head.

I find otherwise much good of my refriger^t^ oyntm^ts^ laied upon my reynes hanches and sydes forwards, and I judg the coolenesse of oyntm^ts^ most proper owtwards bycause that of bathes doth somew^t^ shutt; but fomentacions warme applied methinkes should be next in fittness to oyntm^ts^.

[f. 27.] I doe find nothing to induce stopping more and to fill the head and to induce languishing and distast and fevrous disposicion more I say then any maner of offer to sleep at afternoon,

Memoriæ valetudinis. The notes which follow under this head are all crossed out.

cyther ymediately after dynner or at 4 of clock. And I could never yet fynd resolucion and strength enough in my self to inhibite it.

I have fownd a dyett to feed of boyld meat, coole salletts, abstinence of wyne, to doe me much good, but it may not be contynued for palling and weakenyng my stomach.

I have fownd good of 3 spoonefulls of Syrope of vinegar simple or syrope of lemans taken ymediately before supper, for it quickneth appetite and raiseth ye expulsive vertue for any remayn of collection in ye stomach.

I have but it is long since found good of chalebs præparatus steeped in white wyne and the wyne powred easely from the powder without raising ye powder or shaking ye liquor, or straynyng. I found it made me strong and desyrous to waulk and styrre; I found it, as it seamed to me, in my fingers ends. It made me look for the tyme very pale; The powder in substance taken as in pill or confeture, I have found daungerously heavy upō my stomach. Some decoction openyng and cooling mought half part be mingled wth the wyne.

I have ever had opynion that some comforting drink at 4 a clock howre wch is the howre of my languishing were proper for me. [f. 27, b.]

I have found now twyse upon amendm^t^ of my fortune disposition to melancholy and distast, specially the same happenyng against ye long vacacion when company failed and business both, for upon my Sollicitor^s^ place I grew indisposed and inclined to superstition. Now upon Milles place I find a relaps unto my old symptome as I was wont to have it many years agoe, as after sleepes; strife at meats, strangnesse, clowdes, etc.

To remember dispatch of Hartfords war.

To remem. my turn in Copw. war.

To rem. Daubinyes warr^ts^.

Hartford's war. Probably a warrant for carrying into effect "an agreement between the King and the Earl of Hertford and Lord Beauchamp, for conveying to the said Earl certain reversions of entailed manors and lands, and for Lord Beauchamp to be created Earl of Hertford, on decease of the present Earl" (S. P. Dom. James I. Feb. 28, 1608). See also June 1, 1608, and March 15, 1609.

Daubinyes warr^ts^. See above, p. 55, n. 3. These three memoranda are also crossed out in the MS.; as well as the four notes concerning his health which follow.

I tooke now very lately Almon milk on mornynges to break fast and absteyned from wyne and after some great pleasing at first and increase of ♀ I found an extreme symptome after sleepes remedyed by a purging pill.

[f. 28.] I used for 3 or 4 dayes to anoynt every mornyng my side wth oyle of Almans and to take new extracted oyle of Almans 3 spoonefulls inwards and barly cream upon it, and I joyd much in it at first and found in the whott weather less thyrst, but yet disposicion to sweat and certen inward pleasure, Melancholiã coelestem; But soon after I have found great vapourousnesse and disposicion ad Motū mentis, much wynd, great and glowing and sensible heat sub hypochondriis, wth some burnyng and payne more then usuall, besides wyndynes and rasping.

It never faileth that after a good purge or purge repeted the 5^t^ and sometymes the 4th day I have an exasperation of symptome and heat or clammyness sub hypochondriis; And the more ease I fynd for the tyme, the woorse I fynd upon ye return.

[f. 28, b.] I have used for a fortnight to discontynue clarett wyne and to use midd mele a soppe in sack or a small drawght. At first I found as I thought some strength of stomach by it, having douted before that by ye alman milk and barly creme, and leavyng wyne and wrong of phisike my stomach was to much neglected. But since I have fownd it hath made me more subject to my symptome. And I cannot impute it to anything more that there hath byne a kynd of relaps, offer to grone, ructus, fervencie, sense of torrefaction in viscere, And ye rest, and specially straungnesse and clowdynesse; for both it burnes in the stomach and is vaporous, and I had a manifest sense thereof at Gorhambury that in the very taking of it midd supper I was taken wth the like symptomes. Therefore I think I must resort agayn to some small clarett wyne refrigerate wth herbes; for that increaseth spirits and vaporeth not so much nor burneth not so much in the bottome of the stomach where my distemper is.

♀ Meant probably for the astrological sign of Venus.

Sors sive Fortunæ Præsentes. [f. 29.]

Jul. 28, 1608.

AN ESTIMATE OR STATE OF MY STATE REALL OR VALEW IN INHERITANCE OF FREEHOLD VALUED IN GROSSE AS IN PRETIO TO HAVE MONY MADE OF IT.

My lyving at Gorhamburye.

The parke landes of Gor. in occupaț of R. Smith, per An.	67l- 3s- 0d per red.	
The park land which was let to Thom̄ fineh and is now in the occupacion of ye same R. Smith	26l- 0s- 0d per æst.	
Great Brook fecld Cū aliis let to Wi. Finch	18l- 15s- 0d per R	
Sawyers hill let to Marson	14l- 0s- 0d per R	
The Mannor of Pray let to Wi. Finch reckonyng the ꝑview	38l- 0s- d per R	qy of ye quitt rents
Land let to the wydow Weedes	7l- 10s- d per R	
qu. of Finches rent for Ks Farme		
Of Lawrence for the grownd about the howse and the park grownd wch went with Ks farme	12l- 0s- 0d per R	
Of Shaford not reckonyng the grownd bought by Marson in Revers . . .	2l- 0s- 0d per R	
Of Axtell for Drapers med.	2l- 6s- 8d per R	[f. 29, b.]
Of Crossby for Comforts mead.	6l- 0s- 0d p. R	
The Medow in myne owne hands	8l- 0s- 0d p. Ae	
Of Dornall	1l- 16s- 0d p. R	
Of Large	0l- 6s- 8d p. R	
Of the Customary rents	22l- 0s- 0d p. R	
Of the Mill besides the grist	20l- 0s- 0d p. R	
Of the parquisits of Cowrt a Mediū . . .	20l- 0s- 0d ꝑ Ae	
Of wood sales Annuall a Mediū	50l- 0s- 0d ꝑ Ae	
Qu of Evesides wr it be comprised in Smithes rent		
Rem. Squirrells Busshes.		
No profite of the Howse.		
Sum̄ total. Reventionū Annaliū	319l- 0s- 0d	
This at 16 years purchaze	5104l- 0s- 0d	

Sors, sive Fortunæ præsentes. In the estimate which follows, some of the names, both of persons and places, are difficult to make out, and may have been misread. But the figures are clear, and the abbreviated words are, for the most part, so obvious as not to require explanation.

The Howse waulkes and ponds val. at . . . 1000l- 0s-0d
The Tymber upon ye Ground val. at 1200l- 0s-0d
So the whole valew to be sold of my lyving there . . . . . } 7304lib
Memorand. the wood purchaze of Pemberton 15l p An. val ut suprà 240l

[f. 30.] *My wyves land.*

Mid. Of Westbourn farme reck. the grownd to be stubbed my dividend . . . 32l- 0 -0
Canc. Of Walmestone my dividend qu. . . 40l- 0 -0
Southam. Of Rotherwike Farme my div. . . . 15l-10s-0
Canc. Of Farbourn my divid. . . . . 9l- 0 -0
Can Of Swailiff my div. . . . . 8l- 0 -0
Lond. Of Allport for the ship in Cornw. my d. 2l-10s-0
Lond. Of the Tenemts in St Clemts La. my d. . 4l-10s-0
Lond. Of the Tenemts in Bpsg. str. my d. . . 4l- 5s-0
Lond. Of the green drag. in fleet st 1l-10s-0
Ess. Of the Inheritance of Chensfoorth . . 3l- 0 -0
Sum̄ total. Reventionū Annal. . . 120l-10s-0

Thear are prst Improovemts to be made of some of these
Fusts tenemt etc.
This at 20 years purchaze much of it being to be improoved 2400l
Wood and Tymber at Farnbourn and other parts of my land: my divid . . . 150l
So the Totall valew to be sold of my wyves lyving in possession . . . . . } 2550lib

[f. 30, b.] My wyves lyving in Reversion after her moothers death . my divid. 140l
This, thear being a young life in it, valued at 9 years purchaze 1260l

My Office of Sollic. to be parted with . . 2000l
My office of Cl. of ye Starch. 6000l
My pension of 60l 300l

Cl. of ye Starch. Clerk of the Starchamber.

My duchy fee	100l	
So the Totall sume of my fees and offices to be sold	8400l	

MY PERSONALL ESTATE BY ESTIMATE FOR THE PARTICUL. VI. THE INVENTORYES. [f. 31.]

My leas at Chensfoorth	240l	20l p'An.
My leas of Recusants	480l	120l per An
The remayne of my wyves portion	1200l	

Juells of my wyves.

An upright feather	100l	
A crooked feather	100	
A flowre de luce feather	100	
The pendants my tokens	50	
The Necklace of perle	50	
My fayre diamond ring	45	

Juells of myne.

My poynted and Table diamd	16	100
My other Rings	10	
My Clock	10	
My wyves pryvate purse	200	
My wyves apparell and furnit.	100	
Myne own apparell. Sabells. wardrope stuffe . .	100	[f. 31, b.]
The hangings, carpetts, cusshins at Gorhamb. . .	100	
The bedding and other furniture Armor etc . . .	250	Some tables
The furniture of my chamber at Graies Inne, wth bookes and other Implts	100	200
The furniture at Bath house	60	200
My sylver plate	300	400
My gilt plate	100	200

120l. per an. 60*l.* had been written first, but is crossed out and 120*l.* written below, apparently at a later time.

Armor. In a ground plan of the house as built by Sir Nicholas Bacon, which is given in a 'History of Gorhambury, by Charlotte Grimston,' privately printed in lithography, there is a room called the "Armor Hall."

Some tables. These notes in the margin have evidently been inserted afterwards,—probably on the 28th of October, 1609 (see further on p. 95), when the amount of furniture, etc, had been increased.

Bath House. "Fullwoods howse" had been written first; but "Fullwoods" has been crossed out, and Bath House written over it at a later time; from which I infer that Bacon's London dwelling was at "Fullwoods" (wherever that might be) when he wrote these notes, and that he afterwards removed to Bath House.

My Cotch horses, other horses, Cotch etc 50

So the whole valew of my person. estate to be sold is 3731

m^y m^rs Chamb^r 120. The lease of my chamber is to be added. val . . . . . 250^l

My part of ye battry woorkes being of inherit . . . . . 60^l

Added to ye former 4041

[f. 32.] *Debts sperate.*

Hampshire debt . . . . . 25^l

My Annuity at Beccles . . . . . 30^l

My annuity at Beccles. I do not know what this annuity was. But in the year 1863, Mr. Rix, of Beccles, discovered, among the records of the corporation, copies of two letters, which show that in Bacon's early life he had some professional connexion with the town. For the knowledge of these I am indebted to my friend Mr. W. Aldis Wright; and as they came too late to be inserted in their proper place, I cannot do better than introduce them in connexion with this entry, which they may possibly help to explain.

"The fen or 'marshe' (Mr. Rix writes in his explanatory note April 1863) which now forms the chief property of the Beccles corporation, was originally part of the possessions of Bury Abbey, and after the dissolntion of the monasteries was granted to one William Rede, and subsequently to the inhabitants as a corporation. The undue share of authority reserved to the Rede family in those grants occasioned many and long continued disputes. These ended in a surrender of the Fen to the Crown in 1584. It is probable that Mr. Francis Bacon (afterwards Lord St. Albans) was concerned as counsel for the inhabitants in some of the previous proceedings, and that he received his instructions through one William Downing, an attorney at Beccles, who afterwards obtained some appointment under Sir Francis Walsingham. The accompanying transcripts are from copies fonnd among the records of the Corporation.

"The surrender of the Charter in 1584 is referred to in the printed account of the Corporation, p. 11. It caused great dissatisfaction on the part of *some* of the inhabitants, who thereupon began a fresh series of proceedings in Chancery. These were however less reasonable and less successful, than those which had been instituted against the Rede family."

The copie of Mr. Francs Bacon's letter, so much as concerned Wm Downyng, sent to the Lord Treasurer. the xxii^th of May 1585, after that the lord Treasurer had spoken in th' exchequer chamber.

My very good L. Hearing, at Mr Downyngs reporte, y^r Lps [torn] conceyved and uttered both of hym to his greife and discomforte, and of the proceedyng on that pte, at Beccles, to the discountenancyng and infeebling of them, and wth all knowyng yor Lps hono^rable mynde and manner, as well in admyttyng free informacon on both sydes as in the due wayeing of the same, I am bold ptely at his request, and ptely for p^rserving of myne own credytt wth yor Lp, in as much as I delt therin, but cheifely for ye truth and goodnes of the cause and the hard consequence if the same shold not be knowne, beyng for a publiqne good, to signifie vnto yor Lp. y^t as to the sūender (though it were not much materiall) of the auncient voide lres Patents and the purchase of the newe, ther was good and due p'ceeding therin, secrete in deede, as the perill of the cause required, but by the auctoritie and according to the trust of much the greater and better pte of th' inhabitants; and, as to ye ordinñces made and put in use for the imploying and gon^rnynge of the Mshe, carefull respect hath been hadd to the intente of the grante to the benyfytt of the poore, and to the quiett and contentm^t of all sorts;

Surplussage of Chensfoorth lease in ye Exec̃ hands .	60[l]
Divid^d^ of battry	5[l]
Tombes bill wth the Steward	10[l]
from Tanner and Lile for wood	30[l]
Sum̃ total of ye debtes	160[l]
Gorhamb.	7304
My wyves in possess.	2550
My wyves in revers	1260
Offices and pensions	8400
Personall estate besides debtes	4041
Pers. in debtes	160
Sum̃ totalis Sortis to be sold	23615[l]
The wood Pembert. omytted	240
	£23855
Numans debt to be added 300[l]	300
	24155

Debts desperate. [f. 32, b.]

My Nephew Woodhouse to my brother	600[l]
Odnets bill	8[l]

wheras the course on th' other syde appēth to be grounded upon fraude, directly to a private benifitt, followed and carried in indirect and vnquiett manno^r^ and by men troblesome and defamed; and hereof I doubt nothing but good p'ffe shallbe made unto yor Lp when it shall please you to heare it, as maye in pte appē by ye lres a coppie whereof I sende yor Lo. inclosed, returnedd from ye comyssion^rs^ who, by lre from the councell upon complaint of the principall townesmen, delt in ye cawse; and for Mr Downyng, though he maye have fashons more offensive than evill, yett wth yor Lps favo^r^, to speake as I thinke, I take hym to be an honest man, and one y^t^ desyreth to keepe both lawe and peace; howbeit if yor Lp shall contynewe to thinke harde of the mater, then will I, as my duty is, cease to meddle wth it, more or lesse.

The copie of Mr F. B lre to Mr R. C.

My very good cozen

Beccles cause—(a matter very well knowne to my L. as that wherein, throughe the ymportunity of certen, he hath been troubled with but to often)—is to-morrowe heard. I pray you doe, but as at my requeste, use some woord or two to my L. for his good and lawfull favo^r^ in the Corporacon's behalf. It is great pitty so good and charitable an action shoulde receyve such disturbaunce throughe calumniacon and practize,—a thing much m'veled at in the Cuntry. S^r^, the fowerty pounds wch Mr Downinge promised yo^u^ for yor frendshipe herein, he telleth me, is ready, if the cause maye receyve some good end. And so byd I yo^u^ hartily farewell.

SORS SIVE FORTUNÆ PRÆSENTES QUATENUS AD REVENTIONEM ANNUALĒ. £.

Revenue in Hartf.	335
Revenue of my W. land	120
Reven. of my wyves mo.	100
My leas of recusants	120
My leas of Chensf.	20
My pension	60
My Sollicit. place	1000
My practise	1200
My office of St. Ch.	2000
My duchy fee	20
Sum̄ total. Revent. Annualis	4975

Note No profite made of Gorham. Howse
No profite of my chambers at Graies Inne
No mencion of sutes and avayles.

[f. 33.] ACCESSIONES SORTIS PER APPROBATIONEM.

Improovements.

The raising of the rates of Woodfells at pray at lest to 5^{sills} the A.

The taking some Tymber frō Gorhamb. yf I part with it.

The stubbing pray, w^{h} may raise 1000 and in Revenue 20 p An. more then the Mediū now is.

The keeping of my howse Gor. chargeless by some fitt person, for the use of a lodging there.

The erect̄. of Shaford into a Farme after Kns leaving it.

Better improovem^{t} of ye medowes in myne own hand.

Some ꝑfite of the desert ground by Roses, frute, phisike herbes etc.

The woods at Farbourn and Rotherwike to be surveyd.

To take the lease of Tyth from Seales Exec̄. or from Maynard yf it be not yet doon.

[f. 33, b.] To survey the woods at farbourn and Rotherwike and to husband them.

To survey the wood and Tymber upon ye rest of my wyves land as well jointure as otherwise.

To improove the leases of my wyves land as they expyre.

W. Wife's. *Mo.* Money.

To improove Pray when it falles.
Rate of the Miller for my grist or the same in kynd.
The renuing my Lease of the Medows from Wendy.
Looking into my brothers Sales.

ACCESSIONES SORTIS CASUALES.

The surviv[r] of my sister Br. portion and the rest as to the land.
The comyng in of my La. Pag. Joynture.

DIMINUTIONES SORTIS.

DEBITA. [f. 34.]

Oct. 24, 1609. *deb. unde usura nō currit.*

To S[r] Jh. Cunst . . 600[l] sin. die [×]
To my L of Salsb. . . 300[l] sin. die [×]
[100.] To Mr Grymestone . 200[l] Mic. next [×]
To Sidly . . . . . 100 [×]
[20.] To Hayman . . . . 100 pr. [×]
To Colthirst 80
To Mr Jerves . . . 100 [60]
[Mynett.] To Besling 100
To y[e] draper [bradshae] 30 qu.
qu. d Axtelput deb[r].
per bill.
Goddard uph. Wryte mere. Tychb. lyn. drap. Jenyngs uphol. Cotchm. Guillaume. Skynner. Glasier.
To Hanbury . . . . 48[l]
Sum̃ tot . . 1566.

Deb. und. us. currit.

To S[r] Mich. Hickes . 200
[57.] To Murtoft . . . . 129 qu. × 108
To Wolly . . . . . 200 qu. [× 150]
140 p To Bolls . . . . . 160 qu.
[To Vickars 56 To S[r] Jh Crofts . . . 250–300
Dams 16. Bradshae pa 16. Harisō drap 56. To Gannet 7.] To Rynall up. Orells le. 100
To Booth Shillito . . 100
[Tychbourn lynē drap 55[l]]

Br. Bridget, his wife's youngest sister.
Pag. My Lady Pagington (Packington), his wife's mother.
Oct. 24, 1609. The words and crosses within brackets are added in ink of another colour and I think by another hand. The rest represent the page as originally written. Of the names which follow, and the figures which stand first, several are crossed out; viz. in f. 34, the names Grymestone, Jerves, Hanbury, Cotchm., Guillaume, Skynner, Glasier, Godheard, Write: and the figures, 200 (l. 6), 100 (l. 9 and 10), 129 (l. 18), 200 (l. 20), 250 (l. 22). In f. 34, b, the figures, 80 qu. (l. 1), 190 50 140 (l. 2), 92 qu. 20 p. (l. 4), 80–66 (l. 5), 300 50 p[d] (l. 7), 280 (l. 8), 50 (l. 9), 14 (l. 13), and Mayor 50[l] (l. 15).

[To Godheard uph. . 6]
[To Jynyngs . . . 30]
[To Write . . . . 6l]

f. 34, b.]

To Woodcock . . . 80 qu. 30
To Hooker . . . . 190 50 140 [100]
To Harys 345
To Gomersall . . . 92 qu. 20 p. [40]
To Winkens . . . . 80—66.
To Kemp . . . . . 200.
To Crosseby . . . . 300 50 p[d] [250]
To S[r] Ja. Mar. . . . 280 [125]
[To my bro. Ed.] To S[r] Ed. Hu. . . . 50
To Bracy 60
To Lean 40
To Acton 100
[To a silkmā 14l.] Sum̄. total . . . 2925
M[d] Cheny . 40
To Mayo[r] 50l Trott . . 100 dem.
Numan hath another band to Trott in his handes.
Churchill . 100
[Cage . . 54]

[To Cotchm. . . 4
To him more . . 16
To Wells Hatter . 5]

4481

[f. 35.] To consyder fully w[r] the ass. be strong tow. Gorhamb. rem̃. the poynt of the teste of y[e] rec. and fine. qu for Pembertons purch.

The weakness of Axtels ass. and so my cov. in danger.

The weak. of Sidn. ass. and so my cov. in danger.

The compat. of my pls.

The limitac. to my lower chambers of Graies Inne.

ass. Assurance.

rec. "Recovery," I suppose. "*Teste*" (says Cowell) "is a word commonly used for the last part of any writ; so called because the very conclusion of any writ, wherein the date is contained, beginneth with these words (*teste meipso*, etc.).

purch. Purchase.

Compat. of my pls. Compatibility of my places, *i.e.* Solicitor-General and Clerk of the Starchamber. See p. 48, n. 1.

My Duch. Pat. not inrotul.
My So. pat. wthout surrend.
Band to one Brown about a Sute qu by M. Jones.
Band by Stat. to D. Smith 20 years since satisfied.

DEBTS HEARTOFORE ABSOLUTLY CLEERED. [f. 35, b.]

Trott.
Alderman Some.
Ald. Spenser.
Mills.
Serj^{t}. Heal.
Fissher and Cauffeeld.
Simson Goldsmith.
Wi. Jhonson of Graies Inne.
Sr G. Rynall.
All reckonynges about my uncle Cooke's will.
Mott of Colchester.
Spenser my brother Ant. Man.
Moorer Apothec.
Preskott. Goldsmith.
Sr Baptist Hicks.
S^{r} He. Nevell.
Sr Wal. Cope.
Buck Steward of Gr. Inne.
Gedny vintner.
Wynne draper.
S^{r} Th. Challoner and Salter.

Feb. 15, 1607. The K. assembled his Judges *not all but certen of them* before their Circuts and fownd fault with multitudes of prohibicions; ye particular wch gave the occasion, was the complaints of ye 2 Præsid^{ts} of Wales and North; ye K. was vehem^{t} and said that more had been graunted in 4 year of his Rayn then in 40 of former tyme; said that no kingdome had more honorable Cowrts of Justice but agayne none was [f. 36.]

So. pat. Solicitor's patent.

Feb. 15, 1607. This begins a new page, still with the heading *Transportat. Jul.* 29, 1608, being apparently a note originally made on the 15th of February, 1607–8, and now transferred to the new note-book.

Upon the subject of the first two paragraphs, see Mr. Heath's preface to the legal argument on the Jurisdiction of the Marches. Lit. and Prof. Works, ii. p. 569.

more Cursed wth confusion and contention of prohibicions; seamed to apprehend the distribucion of justice after ye French manner was better for ye people and fitter for his greatnesse, sayeng y^t^ this course to drawe all thinges to Westminster was to make him K. as it were of ye Ile of Fraunce and not other provinces, so of a p^r^cinct about London and Westminster; noted matter of profite was the cause why ye Judges imbraced so much; warned a surceance of graunting prohibicions for the vacacion folowing with a dislike they should be graunted but in Cowrt, and shewd a purpose at some tyme to hear himself the matter and to define of it, though he spent many daies about it: He sayd they putt the subject to Tantalus payne that when he thought to take the frute of his sute it fledde from him.

[f. 36, b.] The judges were in effect sil^t^: but note it had been easy to awnswere without offense that the increas mought be as his M. sayd, but that the quæstion would be whether it grew bicause the Cowrts above imbraced more or y^t^ the lower Cowrts p^r^sumed more then in former tyme through the inclinacion of ye tymes to popularity, and so gave the occasion, a thing easely discerned by exam. not onely the prohibicions above but chiefly the dealing in new matter in the inferior Cowrt.

A second matter ye proceeding with ye Papists; whercin his Ms direction was the oth of alleagance to be generally ministred, but shewd a mild inclinacion towards as were not Apostatans since his tyme nor practisers; and comended to favor such Preests as would take ye oth of Alleagance.

Qu. how the K. hears of the reform of depopulacion this progress into Northamtonshyre.

The K. sayd the revenue of Alehouscs was a fitt revenue for my

towards as. So in MS. 'Such' appears to have been omitted.

Northamptonshyre. This appears to be a fresh query. "The progress," says Chamberlaine, writing on the 7th of July, 1608, "holds on towards Northamptonshire." In the spring of 1607 there had been serious riots in that county, "under pretence of laying open enclosed grounds of late years taken in." (See 'Book of Proclamations,' p. 139.) And Bacon, who, as we have seen, did not quite like the part assigned him in that service, watches to see what impression a visit to the place will make upon the King. These "commotions about unlawful inclosures" had begun in May, 1607, spread through many counties, and "it was not till the midst of June before all this stir was quieted." In July commissioners had been sent to inquire into the offences and the grievances, "some sufficient gentlemen in the several counties, such as were least interested in the business of enclosures," being appointed to join with them. See Abstract of Registers of P. C., May, 11, 29, and July 23.

L. Beauch. yf he were K; But yet yf Vespas. ex lotio, a K. may ex potu.

The Counsell assembled the Judges and explained more fully ye Ks direction touching recusants and religion matters ut seq. [f. 37.]

No preest to be executed y^t would take the oth of Allegance.

No preest to be exec. that would conferre or shewd not arrogancy and violence, even of them sparingly. The Ks woord was, No torrent of blowd : poena ad paucos.

It was inquyred w^t prests were in gayle in every Circute, and reported skarse half a dozen in all; wch sheweth no watch or search.

For recusants, the new Oth the refusall whereof bringeth p^rmunire not to be tendred but to Apostatans and practizers : this was generally spoken by y^e K.

The new oth limited to be tendred to 3 persons . the Indited $recus^t$, the Non Cōmunicant, the vagarant person. And quæstion came incidently, w^r the oth should be tendred to y^e Non Cōmunicant. And it was probably inferred that yf some of the Indited by y^e Ks speach were to be spared, a fortiore those wch are no recusants.

But note y^t it is a strange Monster, A nō Comunicant y^t will come to Church and not take the oth of Alleagance, For it sheweth him more poysened in his loyalty then in his religion. [f. 37, b.]

My L. of Sals. at y^t tyme opyned that this violent proceeding of ye pope in condemning ye oth of Alleagance was to drawe the K. to blowd, and so the people to greater despaire and alienacion, and forenors to malice and quarell, y^e better to expose this realm to a pray.

To this y^e Archb. replied y^t by y^t reason wth y^e more fury Room proceeded y^e more remisse we should be—quod Nota.

Thear was a sute by Roshborow and Cary for monyes levyed upon Townes eased of $15^{tecnths}$ since 34 Eliz. quæstion was in case the governors of Townes had levied it, under color,

Beauch. I do not know who this should be but Edward Lord Beauchamp, who was to be created Earl of Hertford on the death of the then Earl. See above, p. 79, n. 1. It appears from a letter of his to Salisbury (S. P. Dom. James I.) 8 May, 1611, that some complaint had been made of him to his father; and when he died in July, 1612, we learn from Chamberlain that his father "took his death more grievously than was expected." It may be that he was a drunkard, which would sufficiently explain the King's allusion. With regard to "Vespasian ex lotio," see Apophthegms, No. 174. (Lit. and Prof. Works, ii. p. 149.)

But note. Here follow three pages headed *Transportat. Jul.* 28, 1608 ; I suppose by mistake.

[f. 38.] hyding it from ye meaner sort and converting it to publike uses. Thought fitt thear should be a clause to submytt that case to order, but no lykelyhood bycause Collectors were not named by ye Town. Note though such fraud were found yet the mony is not ye Ks but ye peoples.

Hubb. disadvant.

Gunters cause
Depopulacions [Aydes]
Fullers exam.
Prohibic. [defect. Tit]
Alehouses.

better at shift then at drift

Subtilitas sine acrimonia.

No powr with the judge

He will alter a thing but not mend

he putts into patents and deedes woords not of lawe but of comen sens and discours.

fo. He that hath so much severall to overcharge the Comon, when he ingrossed drawing of bookes.

Sociable save in profite

fo. He doth depopulate my office: otherwise called inclose.

[f. 38, b.] I never knew any of so good a speach wth a woors penne.

Nothing better in Action then to know what to permitt and w^t^ to p^r^scribe. Let nature woork somew^t^.

The bill of recus^ts^ his penne.

The case of 100^l^ He putteth cases in his directions.

The exam of lea. The butcher and the other lea escaped.

Solemne goose. stately least wyse nodd crafty. They have made him beleeve he is wondrous wy. The serv. of depopul. He and Myn. weak and corrupt.

He never beats down unfitt sutes wth lawe.

In persons as in people some shew more wise then they are.

people's. This was one of "the three restitutions" of which Bacon reminds himself to speak to Salisbury: p. 43. See note 2.

disadvant. Hubbard's (Sir Henry Hobart's) disadvantage. See above, p. 50, n. 4; and introductory remarks, p. 34. The whole of this note is crossed out in the MS.

CUSTUMÆ APTÆ AD INDIVIDUU̅.

To furnish my L. of S wth ornam^ts^ for publike speaches.

To make him think how he should be reverenced by a L. Ch^r^ yf I were; Princelike.

To præpare him for matters to be handled in Counsell or before the K. aforchand and to shew him and yeeld him ye frutes of my care.

Regularly to know the Ks pleasure before every Term and agayn before every Vacation, The one for service to be executed, ye other for service to be p^r^pared, Tam otii ratio quam negotii. Q. Eliz. wateh candell. [f. 39.]

To take notes in Tables when I attend ye Counsell, and sometymes to moove owt of a Memoriall shewd and seen.

To have particular occasions, fitt and gratefull and contynuall, to mainteyn pryvate speach wth every ye great persons and sometymes drawing more then one of them together, Ex Imitatione Att. This specially in publike places and w^th^out care or affectation.

qu. for cred^t^; but as to save tyme; and to this end not many things at onee but to drawe in length.

To have ready to moove somew^t^ every starch. day in interv. com. of service.

At Counsell table eheefly to make good my L. of Salsb. mocions and speaches, and for the rest some tymes one sometymes another; cheefly his y^t^ is most earnest and in affection.

To suppress at onee my speaking wth panting and labor of breath and voyee.

Not to fall upon the mayne to soudayne but to inducc and intermingle speach of good fashon.

my L. of S. My Lord of Suffolk, I suppose. As Lord Thomas Howard he had served with distinction in several of the sea-voyages against Spain, in the later years of Elizabeth; was made Privy Councillor and Lord Chamberlain by James, 3 May, 1603, and Earl of Suffolk in the following July. A man much about the person of the King, and rising into importance as a Councillor: though it may easily be supposed, considering the nature of his occupation in earlier life, that Bacon's help would have been useful to him in the business of a statesman.

Q. Eliz. Watch-candell. "And as my good old mistress was wont to call me her watch-candle, because it pleased her to say I did continually burn (and yet she suffered me to waste almost to nothing), so," etc. (Letter to the King, 31 May, 1612.)

every Starch. day. "Every Starchamber day, in intervals of commissions of service." The Starchamber sat on every Wednesday and Friday during term.

[f. 39, b.] To use at once upon entrance gyven of Speach though abrupt to compose and drawe in my self.

To free my self at once from payt of formality and complemt though wth some shew of carelessness pride and rudeness.

SERVICES ON FOOTE.

Depopulacions, Lincoln and furder proceeding, Oxfordshire.

Buildings and the Inlargemt of ye Comission.

Intayles that ye cowrse by grant and render, that is by grant from the subject upon ye wrytt of Covent brought by ye K. and render by the K. be good.

Fullers cause—qu. of Bacheler and Manxell.

Prohibicions and Ecclesiasticall causes.

Postnati. The finishing of my Argumt and publicacion of the rest.

[f. 40.] The Equalling the Lawes of ye 2 Kingdomes.

The Recompyling of the Lawes of England.

Sutes for Concelemts, Tipper, bolton, Berw Warwike, Shurly.

Harmans sute for equalling Customes of new draperies.

Sute of taxacion upon Innes.

Sute grownded upon ye old statuts of prices of Haye.

Sute upon Latitats, ye Ks fyne is now established.

Sute upon ye making of Latitats.

Title of drownd lands.

Tythes owt of parishes.

Aurū Reginæ.

Gunters Cause.

Præparation against next Parlamt.

For equalling lawes to proceed wth my Methode and to shew ye K. title of prrogative as it is doon.

Not. feodalls doon by Cragge perillous to Monarchies; qu. ulterius de universo isto negotio.

[f. 40, b.] To rememb. my L. of Lincoln for mat. of depopulaī.

payt. Payment.

Services on foote. The six paragraphs which follow are all crossed out in the MS.

The equalling the laws, etc. That is, the removing of the discrepancies between the laws of England and Scotland. See "Preparation for the Union of Laws," Lit. and Prof. Works, ii. p. 731. This begins a new page, headed "Transportat. July 31, 1608."

Warwike. Thomas Warwick had a patent for concealed rents. (S. P. Dom. James I., 7 April, 1609.)

Cragge. Sir Thomas Craig: see above, p. 48, n. 3. The last eight paragraphs are crossed out in the MS., as well as the next eight, which fill a fresh page, headed "Transportat. Aug. 6, 1608."

Phi. Gerard for building.
To dispatch the pardons for buildinges in the absence of ye Att. qu. how.
To renew the Comiss. inlarged.
The sute towching lycenses for Innes.
M^d^ Yelverť. I susp. for ye Epis. of fu. book.
M^d^ to fynd owt that silently—qu. I mean fullers book.
To have a note from Mr Cha^r^ of ye new Inventions.

Oct. 28 1609. [f. 42.]

S^r^ Jh. Cunst. . .	600	20	Colthurst . .	80	
My L. of Sals. .	300		Mynot . . .	60	
Ald. Swynert.. .	250*	26	Vickers . . .	56	
Bernards . . .	200*		de novo . . .	8	
Plate	170*	26	Harisō . . .	86	
Mic. Hicks . .	200	20	Jenyngs . . .	30	
Harys	345/100*		de novo . . .	60	
S^r^ Jh. Crofts . .	300/100*	20	Bradsh drap.	30	15[1]
Marnin . . .	125	[169	Brad. Juel. . .	16	
Sydly	100	25	Tychbourn . .	55	
Haymā . . .	100/50	[16	Dams	16	
Kemp	200	[7	Gannet . . .	7	
Murtoft. . . .	108/50	[30	Woode . . .	30	
Wolly	150/50	20	Gomers. . . .	40	
Hart at Bolls . .	160		Crosseby . . .	250	
Rynall	100		Baily	50	
Shillito	100		Soam	40	
Newmā	100—100				
Hooker . . .	100—50			4544	
Steward . . .	100				
				196	
				4740	

M^d^ Yelvert. I susp., etc. "Yelverton I suspect for the epistle of Fuller's book." See above, p. 51, n. 1.

inventions. Probably Salisbury's new inventions for raising money.

Here follow three blank pages, and then the list of names and figures (which is a list of creditors and the sums owing to them), with the date "Oct. 28, 1609."

The figures inserted to the right of the first column and to the left of the second I take to be part-payments. In the second column the names of Vickers, Jenyngs, and Bradshaw, with the figures annexed, are crossed out.

CHAPTER III.

A.D. 1608. ÆTAT. 48.

1.

Among the memoranda in the foregoing note-book, of services to be attended to, the projects or discoveries of Sir Stephen Proctor recur more frequently perhaps than any other; and to them the paper which comes next in date refers.

Sir Stephen Proctor had been employed for some years in gathering fines, debts, etc., due to the Crown; and having discovered a variety of abuses in the existing practices, had made suggestions for the correction of them, which were referred to Bacon for his report. Many of these suggestions,—and the most important (though not so much for the benefit of the Exchequer as for the ease of the people, who had to pay heavily to informers for the privilege of not being prosecuted),—related to the exactions of fines upon penal statutes; and this being a matter in which Bacon had always been urging the necessity of reform, he naturally took it up first, and reported to the King his opinion of that part of Sir Stephen's projects. A copy of his report is preserved among the Harleian Manuscripts. It belonged, I think, originally to the book entitled *Orationes, Acta, Instrumenta, circa res civiles;*[1] being written in the hand of one of the scribes employed in that collection, with the heading added afterwards (as in most of the others) by Bacon himself. At any rate, it is a well-authenticated copy of a paper which he thought worth preserving at the time, and that is the fact with which we are chiefly concerned. The date is not exactly stated; but the expression "within *these* five years of your Majesty's happy reign" may be taken as a proof that it was written before the end of James's sixth year, which was completed on the 23rd of March, 1608–9; and suits well enough with the summer of 1608, which appears otherwise to be the most likely date.

Among the Lansdown Manuscripts, No. 167, are several papers

[1] See p. 59, note 4.

relating to Sir Stephen Proctor and his projects; one of which (fo. 18) bears the following title: "The project for the suit preferred to the King's Highness concerning the fines, forfeitures, issues, and amerciaments inquirable before the Justices of Peace and Clerk of the Market, to bring the revenue better in charge and more plentifully into the King's coffers, and also to reform many grievances in the Commonwealth." And the first article of his suit is, "that his Majesty may be pleased by patent to nominate the petitioner his especial officer, to take upon him by himself and his sufficient deputies the general charge, oversight, and bringing of those things into his Majesty's coffers, according to his petition, to the end one mild and plausible course may therein be held throughout the realm; and to be named and directed therein as his Majesty shall be best advised: to hold for term of his life." It seems to me not unlikely that this was the very paper which was referred to Bacon, and to which his "certificate" relates. But as each of the matters selected for comment is clearly explained in Bacon's own words, it is not necessary to quote more of it.

The Certificate to His Majesty touching the Projects of Sir Stephen Proctor.[1]

It may please your Sacred Majesty,

With the first free time from your Majesty's service of more present dispatch, I have perused the projects of Sir Stephen Proctor, and do find it a collection of extreme diligence and inquisition, and more than I thought could have met in one man's knowledge. For though it be an easy matter to run over many offices and professions, and to note in them general abuses or deceits; yet nevertheless to point at and trace out the particular and covert practices, shifts, devices, tricks, and as it were stratagems, in the meaner sort of the ministers of justice or public service, and to do it truly and understandingly, is a discovery whereof great good use may be made for your Majesty's service and good of your people. But because this work, I doubt not, hath been to the gentleman the work of years, whereas my certificate must be the work but of hours or days, and that it is commonly and truly said, that he that embraceth much straineth and holdeth the less, and that propositions have wings, but operation and execution hath leaden feet; I most humbly desire pardon of your Majesty, if I do for the present only select some one or

[1] Harl. MSS. 7020, fo. 156. The heading is inserted in Bacon's hand.

two principal points, and certify my opinion thereof; reserving the rest as a sheaf by me, to draw out at further time further matter for your Majesty's information for so much as I shall conceive to be fit or worthy the consideration.

For that part therefore of these projects which concerneth penal laws, I do find the purpose and scope to be, not to press a greater rigour or severity in the execution of penal laws; but to repress the abuses in common informers, and some clerks and under-ministers that for common gain partake with them. For if it had tended to the other point, I for my part should be very far from advising your Majesty to give ear unto it. For as it is said in the psalm, *If thou, Lord, should be extreme to mark what is done amiss, who may abide it?* so it is most certain, that your people is so ensnared in a multitude of penal laws, that the execution of them cannot be borne. And as it followeth; *But with thee is mercy, that thou mayest be feared:* so it is an intermixture of mercy and justice that will bring you fear and obedience: for too much rigour makes people desperate. And therefore to leave this, which was the only blemish of king Henry VII.'s reign, and the unfortunate service of Empson and Dudley, whom the people's curses rather than any law brought to overthrow; the other work is a work not only of profit to your Majesty, but of piety towards your people. For if it be true in any proportion, that within these five years of your Majesty's happy reign, there hath not five hundred pounds benefit come to your Majesty by penal laws, (the fines of the Star-chamber which are of a higher kind only except), and yet nevertheless there hath been a charge of at least fifty thousand pounds which hath been laid upon your people, it were more than time it received a remedy.

This remedy hath been sought by divers statutes: as principally by a statute in 18°, and another of 31°, of the late Queen of happy memory. But I am of opinion that the appointing of an officer proper for that purpose will do more good than twenty statutes, and will do that good effectually, which those statutes aim at intentionally.

And this I do allow of the better, because it is none of those new superintendencies which I see many times offered upon pretence of reformation, as if Judges did not their duty, or ancient and sworn officers did not their duty, and the like: but

it is only to set a custos or watchman, neither over Judges nor clerks, but only over a kind of people that cannot be sufficiently watched or overlooked, and that is the common *Promoters* or *Informers;* the very awe and noise whereof will do much good, and the practice much more.

I will therefore set down first what is the abuse or inconvenience, and then what is the remedy which may be expected from the industry of this officer; and I will divide it into two parts: the one for that that may concern the case of your people, (for with that I will crave leave to begin, as knowing it to be principal in your Majesty's intention,) and the other for that that may concern your Majesty's benefit.

Concerning the ease of his Majesty's subjects, polled and vexed by common informers.

The Abuses or Inconveniences.

1. An informer exhibits an information, and in that one information he will put an hundred several subjects. Of this information every one shall take out copies, and every one shall put in his several answer. This will cost perhaps an hundred marks: that done, no further proceeding. But the clerks have their fees, and the informer hath his dividend for bringing the water to the mill.

It is to be noted, that this vexation is not met with by any statute. For it is no composition but a discontinuance, and in that case there is no penalty but costs: and the poor subject will never sue for his costs, lest it awake the in-

The Remedies by the Industry of the Officer.

1. The officer by his diligence finding this case, is to inform the court thereof, who thereupon may grant good costs against the informer to every of the subjects vexed: and withal not suffer the same informer to revive his information against any of them; and lastly fine him as for a misdemeanor and abuse of justice. And by that time a few of such examples be made, they will be soon weary of that practice.

former to revive his information, and so it scapeth clearly.

2. Informers receive pensions of divers persons to forbear them. And this is commonly of principal offenders, and of the wealthiest sort of tradesmen; for if one tradesman may presume to break the law, and another not, he will be soon richer than his fellows. As for example, if one draper may use tenters, because he is in fee with an informer, and others not, he will soon outstrip the good tradesman that keeps the law.

And if it be thought strange that any man should seek his peace by one informer when he lieth open to all, the experience is otherwise: for one informer will bear with the friend of another, looking for the like measure.

And besides they have devices to get priority of information, and to put in an information *de bene esse*, to prevent others and to protect their pensioners.

And if it be said this is a pillory matter to the informer, and therefore he will not attempt it, although therein the statute is a little doubtful, yet if hanging will not keep thieves from stealing, it is not pillory will keep informers from polling.

2. This is an abuse that appeareth not by any proceeding in court, because it is before suit commenced; and therefore requireth a particular enquiry.

But when it shall be the care and cogitation of one man to overlook informers, these things are easily discovered. For let him but look who they be that the informer calls in question, and hearken who are of the same trade in the same place and are spared, and it will be easy to trace a bargain.

In this case, having discovered the abuse, he ought to inform the Barons of the Exchequer, and the King's learned counsel, that by the Star-chamber or otherwise such taxers of the King's subjects may be punished.

And herein Sir Stephen addeth a notable circumstance: that they will peruse a trade, as of brewers or victuallers, and if any stand out and will not be in fee, they will find means to have a dozen informations come upon him at once.

3. The subject is often for the same offence vexed by several informations—sometimes the one informer not knowing of the other; and often by confederacy, to weary the party with charge: upon every of which goeth process, and of every of them he must take copies and make answers, and so relieve himself by motion to the court if he can; all which multiplieth charge and trouble.

3. The officer keeping a book of all the informations put in, with a brief note of the matter, may be made acquainted with all informations to come in, and if he find a precedent for the same cause, he may inform some of the Barons, that by their order the receiving of the latter may be stayed without any charge to the party at all; so as it appear by the due prosecution of the former, that it is not a suit by collusion to protect the party.

Concerning the King's benefit, which may grow by a moderate prosecution of some penal laws.

The Abuses or Inconveniences.

1. After an information is exhibited and answered (for so the statute requires), the informer for the most part groweth to composition with the defendant; which he cannot do without peril of the statute, except he have licence from the court: which licence he ought to return by order and course

The Remedies.

1. The officer in this point is to perform his greatest service to the King, in soliciting for the King in such sort as licences be duly returned, the deceits of these fraudulent compositions discovered, and fines may be set for the King in some good proportion, having respect to the values both of

of the court, together with a declaration upon his oath of the true sum that he takes for the composition. Upon which licence so returned, the court is to tax a fine for the King.

This ought to be, but as it is now used the licence is seldom returned. And although it contain a clause that the licence shall be void if it be not duly returned, yet the manner is to suggest that they are still in terms of composition and so to obtain new days, and to linger it on till a parliament and a pardon come.

Also, when the licence is returned, and thereupon the Judge or Baron to sesse a fine, there is none for the King to inform them of the nature of the offence, of the value to grow to the King if the suit prevail, of the ability of the person, and the like. By reason whereof, the fine that is set is but a trifle, as 20, 30, or 40*s.*, and it runs in a form likewise which I do not well like: for it is *ut percatur misis*, which purporteth as if the party did not any way submit himself and take the composition as of grace of the court, but as if he did justify himself and were content to give a trifle to avoid charge.

Which point of form hath a shrewd consequence: for it is the matter and the person: for the King's fines are not to be delivered as moneys given by the party *ad redimendam vexationem*, but as moneys given *ad redimendam culpam et pœnam legis;* and ought to be in such quantity, as may not make the laws altogether trampled down and contemned. Therefore the officer ought first to be made acquainted with every licence, that he may have an eye to the sequel of it. Then ought he to be the person that ought to prefer unto the Judges or Barons, as well the bills for the taxations of the fines, as the orders for giving further days, to the end that the court may be duly informed both of the weight of causes, and the delays therein used; and lastly, he is to see that the fines sessed be duly put in process and answered.

some ground that the fine is set too weak.

And as for the informer's oath touching his composition, which is commonly a trifle, and is the other ground of the smallness of the fine, it is no doubt taken with an equivocation: as taking such a sum in name of a composition, and some greater matter by some indirect or collateral mean.

Also, these fines (light as they be) are seldom answered and put in process.

2. An information goeth on to trial, and passeth for the King. In this case of recovery, the informer will be satisfied and will take his whole moiety, (for that he accounts to be no composition): that done, none will be at charge to return the *postea*, and to procure judgment and execution for the King. For the informer hath that he sought for, the clerks will do nothing without fees paid, which there being no man to prosecute there can be no man likewise to pay; and so the King loseth his moiety when his title appears by verdict.

2. The officer is to follow for the King, that the *posteas* be returned.

3. It falleth out sometimes in informations of weight, and worthy to be prosecuted, the informer dieth, or falls to poverty, or his mouth is stopped, and yet so as no man can charge

3. The officer in such case is to inform the King's learned counsel, that they may prosecute if they think fit.

him with composition, and so the matter dieth.

4. There be sundry seizures made, in case where the laws give seizures, which are released by agreements underhand, and so money wrested from the subject and no benefit to the King.

All seizures once made ought not to be discharged but by order of the court, and therefore some entry ought to be made of them.

4. The officer is to take knowledge of such seizures, and to give information to the court concerning them.

This is of more difficulty, because seizures are matter in fact, whereas suits are matter of record: and it may require moe persons to be employed, as at the ports, where is much abuse.

There be other points wherein the officer may be of good use, which may be comprehended in his grant or instructions, wherewith I will not now trouble your Majesty, for I hold these to be the principal.

Thus have I, according to your Majesty's reference, certified my opinion of that part of Sir Stephen Proctor's projects which concerneth penal laws, which I do wholly and most humbly submit to your Majesty's high wisdom and judgment; wishing withal that some conference may be had by Mr. Chancellor and the Barons and the rest of the Learned Counsel, to draw the service to a better perfection. And most specially that the travels therein taken may be considered and discerned of by the Lord Treasurer, whose care and capacity is such as he doth always either find or choose that which is best for your Majesty's service.

The recompence unto the gentleman it is not my part to presume to touch, otherwise than to put your Majesty in remembrance of that proportion which your Majesty is pleased to give to others out of the profits they bring in, and perhaps with a great deal less labour and charge.

Whatever may have been the value of Sir Stephen's projects for the reformation of abuses in other people, it seems that he failed altogether with regard to himself. Heavy complaints were brought against him in the Parliament of 1610, and substantiated to the satisfaction of both houses, and he enjoyed the unenviable distinction

of being specially and personally excepted from the operation of the general pardon with which the session closed: an accident which sufficiently accounts for our hearing no more of his projects.

2.

The official business of the Solicitor-General, though important and laborious, was not for the most part of a kind to retain its interest after it was despatched. Suits to be reported on, patents to be drawn, causes to be argued, dues of the Crown under its various titles to be looked after and recovered, and so forth, were services which could not be dispensed with, but their importance was confined to the day. Among the few letters addressed by Bacon to Salisbury which remain among the State papers and all relate to matters of this kind, there are two which certainly belong to the summer of 1608; and a third which, being of the same sort and the true date not ascertainable, I shall insert along with them. They may help to show the kind of use which Salisbury made of Bacon: but the tone of the correspondence, though friendly and familiar, is still so very restrained and cautious, that I doubt whether much else can be gathered from them.

To the Rt. Honble. his very good L., the L. High Treasurer of England.[1]

It may please your L.,

I had cast not to fail to attend your L. to-morrow, which was the day your L. had appointed for your being at London. But having this day about noon received knowledge of your being at Kensington, and that it had pleased your L. to send for me to dine with you as this day, I made what diligence I could to return from Gorhambury. And though I came time enough to have waited on your L. this evening, yet, your L. being in so good a place to refresh yourself, and though it please your L. to use me as a kinsman, yet I cannot leave behind me the shape of a Solicitor, I thought it better manners to stay till to-morrow, what time I will wait on you, and at all times rest

Your L^ps^ most humble
and bounden,
Fr. Bacon.

This Wednesday, the 24th
of Aug. 1608.

The others have no address: but there can be so little doubt that

[1] S. P. Dom. James I., xxxv. 65. Orig. own hand.

they also were addressed to the Earl of Salisbury, that I venture to insert the name.

TO THE SAME.[1]

It may please your Lo:

According to your Lo: warrant of the 15th of June last, I made a book ready for his Majesty's signature to the use of Mrs. Ellis of the benefit of an extent of the lands and goods of Richard Yonge her father, extended for a debt of 3000l upon recog: which book is since past the great seal. And now having received order from your Lo: for amendment of the defects in that patent, I find the case to be thus: That she hath since discovered two other debts of record, the one of 8511^{l} 19^{s} 4^{d}, the other of 2100^{l} 00^{s} 00^{d} remaining upon accompt in the Pipe office. And though it be true that she shall reap no benefit by the former grant except these debts be likewise released, in regard the King may come upon the said lands and goods for these debts; and it may be the meaning was in Queen Elizabeth to free and acquit Mr Yonge of all debts; for else *Quid te exempta juvat spinis de pluribus una?* yet I do not see how I may pass the book again with a release of these two debts, without your Lo: further warrant, which I humbly submit to your honourable consideration.

Your Lo. most humble
and bounden,
FR. BACON.

2° octobris, 1608.

It appears from the Calendar of State Papers that the required warrant was given. For on the 22nd of October, 1608, a grant was made "to Val. James to the use of Susan Ellis, of the benefit of the lands and goods of the late Rich. Young, Collector of Petty Customs, extended for a debt of 3000l., and a release of two other debts due to the Crown."

TO THE SAME.[2]

It may please your L.,

I send the two Bills according to your L.'s pleasure signi-

[1] S. P. Dom. James I., xxxvii. 4. This is either a copy or a draught from dictation, written very hastily.

[2] S. P. Dom. James I., xxviii. 140. Original: own hand: but without date, docket, or superscription; the flyleaf being gone. In the margin, the words "S^{r}

fied to me, hoping that your L. will pardon me that they come not precisely at the hour. The Book is long, and full of difficulty, and in a business such as this is, I do not much trust to servants or precedents.

I found it more convenient to put one payment more upon the privy seal than your L. directed, and to take it from the rent; because else the grant must have been for ten years and an half, which is not formal. So I most humbly leave and rest

Your Ls. most humble
and bounden,
Fr. Bacon.

3.

If we could know the dates at which the several parts and rudiments of the *Instauratio Magna* were composed, we should probably find that this vacation was one of its most fruitful seasons. But of those writings which can be referred with certainty to the summer of 1608, the most important to posterity is the Latin treatise *In felicem memoriam Elizabethæ.* It is an accident that enables us to date it, but the evidence is, I think, conclusive. Chamberlain, writing to Carleton on the 16th of December, 1608, mentions it as a new thing which he has just been reading; and from the letter which comes next we learn that it was written "this last summer vacation."

The severe laws passed by the Parliament of 1606 against the Roman Catholics, which were the natural consequence of the Gunpowder Plot, had, by a consequence no less natural, provoked vehement remonstrances and recriminations on their part, and given rise to a great war of the pen. The Pope had issued his Breves forbidding the faithful to take the proposed oath of allegiance. The King had written a book in vindication of it. Other pamphleteers, great and small, had entered into the controversy; and all old scandals against Protestant Princes and Parliaments had been revived and brought into action. Among the rest there appeared at Paris in 1607 a book entitled "*Examen Catholicum Edicti Anglicani, quod contra Catholicos est latum, auctoritate Parliamenti Angliæ, Anno Domini M. D. C. VII. Auctore Stanislao Cristanovic. I. C^to.*," five or six pages of which in the introductory part are occupied with a

Fr. Bacon w^n Solic^r gñall" have been written by a later hand, apparently to verify an autograph; the body of the letter and the signature having been separated, and the same note ("w^n Sol. gen.") written on each.

collection of all the evil that had ever been uttered against Queen Elizabeth; with additions of the writer's own, gathered during a visit to England the year before. This, or some other book of the same kind, suggested to Bacon the expediency of setting down in some permanent form his own impressions of her character and government. He knew that the falsehood of a story will not prevent it from keeping its place in history, if it once get admitted with a good introduction and without audible protest. And as so eminent a man as the President De Thou was known to be engaged in writing a history of his own times—(a portion of it had been printed at Paris three or four years before)—it was very desirable that he should be supplied with true information about Elizabeth, and thereby guarded against impressions derived from the floating literature of Paris, and such anecdotes as this Parisian Jurisconsult was ready to accept for historical. Accordingly, without noticing the particular calumnies which he meant to explode (for so the very repetition of them would have kept their memory alive), he took for his ground the conspicuous and indisputable fact that Elizabeth reigned full 44 years in difficult times, without any reverse or decline of fortune; and by way of indirect retort to the Pope's description of her as *misera fœmina*, proceeded to number up the particulars in which her life and government were to be regarded as remarkable for felicity; taking occasion at the same time to correct by anticipation or by implication such misconceptions of her character as had obtained currency in respectable quarters; and with regard to the Roman Catholics especially, entering into a formal and detailed vindication of her policy and proceedings;—a vindication which was indeed substantially a repetition of what he had twice before taken pains to put forward: first, in the letter addressed by Walsingham to a Secretary of France, in 1589; and afterwards, in his *Observations on a Libel*, in 1592.[1] The correction of these misconceptions being more wanted abroad than at home, he now wrote in Latin: but though he thought well enough of the work to name it in one of his wills as a thing which he particularly wished to be published, he contented himself for the present with circulating manuscript copies among his personal acquaintance. One of these he sent to Sir George Cary, then ambassador at Paris, with a letter which sufficiently explains his purposes and wishes.

The memorial itself—a grave and weighty testimonial, deserving the serious consideration of every one who wishes to understand Elizabeth; for Bacon had particularly good means of knowing the truth of what he tells, and no motive in telling it except a desire to

[1] See Vol. I. pp. 97, 177.

bear witness to the truth,—will be found in the first volume of the Literary and Professional Works, p. 283, with a translation, and a preface in which I have told what I know about it.

The letter comes from Bacon's own collection.

To Sir George Cary, in France, upon sending him his writing "In felicem memoriam Elizabethæ."[1]

My very good Lord,

Being asked the question by this bearer, an old servant of my brother Anthony Bacon, whether I would command him any service into France, and being at better leisure than I would, in regard of sickness, I began to remember that neither your business nor mine (though great and continual) can be upon an exact account any just occasion why so much good will as hath passed between us should be so much discontinued as it hath been. And therefore, because one must begin, I thought to provoke your remembrance of me by my letter. And thinking how to fit[2] it with somewhat besides salutations, it came to my mind that this last summer vacation, by occasion of a factious book that endeavoured to verify *Misera Fœmina*, (the addition of the Pope's Bull,) upon Queen Elizabeth, I did write a few lines in her memorial, which I thought you would be well pleased to read, both for the argument, and because you were wont to bear affection to my pen. *Verum, ut aliud ex alio*, if it came handsomely to pass, I would be glad the President De Thou, (who hath written a history, as you know, of that fame and diligence,) saw it; chiefly because I know not whether it may not serve him for some use in his story; wherein I would be glad he did right to the truth, and to the memory of that Lady, as I perceive by that he hath already written he is well inclined to do. I would be glad also it were some occasion (such as absence may permit) of some acquaintance or mutual notice between us. For though he hath many ways the precedence, (chiefly in worth,) yet this is common to us both, that we serve our sovereigns in places of law eminent: and not ourselves only, but that our fathers did so before us; and lastly, that both of us love learning and liberal sciences, which was ever a bond of friendship in the greatest distances of places. But of this I make no further re-

[1] Addit. MSS. 5503, fo. 41 b.

[2] *fitt* in MS.

quest than your own occasions and respects (to me unknown) may further or limit; my principal purpose being to salute you, and to send you this token: whereunto I will add my very kind commendations to my Lady; and so commit you both to God's holy protection.

4.

To the end of this same year 1608 must be referred another work which also retains its interest for us,—the rather because the problem it deals with is one which has not yet been satisfactorily solved; —I mean the paper entitled "Certain Considerations touching the Plantation in Ireland."

We have seen that upon the news of the flight of Tyrone and Tyrconnell in the autumn of 1607, Bacon saw the beginning of better or worse, but thought it was "first a tender of the better, and worse followed but upon refusal or default." Whether he was satisfied with the measures that were first taken—whether he thought that the offer of the better had been promptly enough entertained and improved—I cannot say. Sir Arthur Chichester, then Lord Lieutenant, seems to have fully apprehended the importance of seizing the occasion boldly and trying the effect of a generous policy without loss of time. But whatever may have been the design of the Government, the execution of it was inevitably interrupted by a new rebellion breaking out from the ashes of the old, which it took some months to extinguish; and it was not till July 1608 that the final overthrow of Neil Garve and O'Dogharty, who had endeavoured to set themselves up in the place of the fugitive Earls, left the field fairly open for the Government to build upon. Armed resistance being then at an end, the first thing to be done was to ascertain how far the legal authority of the Crown extended in disposing of the land in Ulster. And I presume it was with this view and at this time that the Chief Baron of the Exchequer in Ireland sent over to England the questions which are answered in the following paper. For though it has no date, and the arranger of our State Papers had for some reason placed it at the end of those belonging to the year 1617,—yet as it contains the joint opinion of Hobart, Bacon and Doderidge, the presumption is that the questions had been referred to them as the King's Learned Counsel; therefore not later than November 1612, when Doderidge was raised to the Bench; and why not as early as 1608? By the style and the position of the signatures I should judge that it was drawn up by Bacon himself.

Answers to the Questions sent into England from the Lord Chief Baron of the Exchequer in Ireland.[1]

Because the questions are propounded somewhat doubtfully, we have thought good so to answer as may give satisfaction as well to the questions that are propounded as to other doubts about the same, or of the like nature.

1. To the first case therefore, when any man is attainted of treason, be it according to the common law or by Act of Parliament, and then it be found by office[2] that he was seised of any land, the King is thereby adjudged and is indeed in actual possession of the land, and if any other had estate or right to the land, he hath no remedy to recover it from the King but by petition. Inasmuch as the statute of 2 Ed. VI. that allows travers and monstrans de droit in like cases, is not (as we understand) in force in Ireland. And though the King having lands by such title grant them away in fee or fee farm, that changes not the case, but that the Patentee ought to hold and continue the possession, and he that pretends title must sue by petition and not otherwise,[3] as if the lands were still in the King's hands with a *scire fac.* thereupon against the Patentee.

In this suit of petition there are many delays, as by writs of search and the like, yet because they be favours allowed by law to the King or his Patentee, they cannot be denied him being part of his defence.

If the Patentee be nevertheless holden out of possession, he may take any course by entry or suit in law to recover the same and damages for the wrongful occupation: in which suits the defendants though they have right cannot relieve themselves thereby; but must of force be overthrown, inasmuch as their right is bound by the double matter of record that is against them, till they have by their petition undone it.

And so likewise if the King hath granted away the lands in fee farm, though the Patentee be holden out of the possession, the King's rent must still be answered; and therefore the ordinary courses are to be taken for the same by extent, seizure, or

[1] State Papers, James I. Ireland, 234. No date or docket. Signatures original.

[2] That is, by inquisition made *ex officio*. See Cowell.

[3] The words "and he . . . . otherwise" are interlined in the MS.

the like, wherein there can be no defence against the King's rent for the reason aforesaid.

And it is just not to suffer the rent to run in arrearage, for else the wrong doer shall pay no rent, and the Patentee when he shall afterwards recover it shall be charged with his arrearage.

But if the possessions have continued long against the King or his Patentee, or if those erroneous and indirect courses of trying of rights against the King and his Patentees by actions of trespass, *ejectione ferme*, new commissions, or the like, have been allowed by the Courts of Justice there, and that sometimes by allowance and direction out of England (if by these means the right have appeared against the King), and if for those or any other reasons it shall seem good to your Lordships not suddenly to have such possessions removed, it may please you to give these or such other directions as shall seem good to your Lordships.

First, where the lands are in the King's hands and not granted out: It is at his Majesty's pleasure to forbear to seize the lands, upon bond that if they do not prosecute their pretended right by petition with effect, so as they prove their right in due form of law within some convenient time to be prefixed, That then they shall yield the quiet possession with the mean profits incurred.

And if any of those things be granted out, in which case the Patentee cannot be denied his ordinary remedies: yet he may with justice be denied to use any course in the King's name for his benefit, and therefore if he will desire to sue by information upon intrusion before his Patent, it may be refused.

Also the Patentee can procure no seizure of the land for himself or his Majesty, otherwise than for the King's rent as aforesaid, in which case the Court may dispose of the land as they shall think most convenient.

Lastly, if the Patentee can be brought to suffer the possession to continue, and accept of such bond as is before mentioned for the King till the title be tried according to due course of law with expedition, it will be a good quiet.

But in this permitting of them (that pretend title against the King or his Patentee) to continue their possession, that favour (which is granted out of respect of convenience) would be extended only to so much as the pretenders do actually manure,

for otherwise they may make it a colour to the possession of a large country, whereof they have neither use nor occupation; which may tend to the depopulation and decay of habitation therein.

Also (if it seem good to your Lordships) a general direction to the Courts there would do well, that they should not hereafter permit those disordered proceedings by new inquisitions, trials in Ejectione firme, or otherwise, by the pretenders against the Patentees, that have as it seems been heretofore allowed against the King and his Patentees: But to observe in all things the rule of law by which they may judge and the people enjoy their own with certainty. And thus much touching the questions of the first case.

2. As touching the second case, concerning the proxeys granted in the time of King Henry the Eight by the Bishop of Mead unto the said King in exchange for certain parsonages impropriate, although we find some difficulty and that there may be difference of opinions whether the said grant of proxeys be good, although the same were granted by the said Bishop as Ordinary unto the King as supreme Ordinary, yet the said King and other his Majesty's predecessors and also his Highness having been possessed of the same as a revenue of the Crown, we are all of clear opinion that the granting of such Rectories in fee, fee-farm, or lease, by the late Queen can be no [hind]erance to his Majesty by extinguishment, suspension, or otherwise, of the said duties called proxeys [half a line worn away here] unto his Highness into his Exchequer, any the said grants of the said Rectories notwithstanding.

3. As touching the last question, whether a fine for alienation be due unto his Majesty upon a common recovery suffered in Ireland of lands holden by Knight's service *in capite;* we are of opinion that there is due a fine for alienation upon such recoveries, for that they are now but as conveyances and so accounted in law, upon which an use may be raised and averred as upon a fine or any other assurance.

Fr. Bacon.
Henry Hobart.
John Doddridge.

Whatever complications the title might in particular cases be subject to, there was no doubt that the reduction of that long rebellion

left a large portion of the land in Ulster at the legitimate disposal of the Crown, and that the use which the Crown meant to make of its power was to establish among the inhabitants the authority and protection of law in place of the wild rule they had been accustomed to under their native chiefs. How this was to be done was a question of much doubt and difficulty then; and if it is easy now to say how it might have been done better, that is only because the region of the "might have been" and "would have been" is the historian's Utopia, where he can assign to every counsel the issue which he likes best. But though King James and his Councillors could not command the issue of their measures, it must at least be admitted that they took the course which seemed at the time to promise the best chance of a successful issue. About the end of October, 1608, the Chief Justice and Attorney General of Ireland were sent over to London, to confer with the Government on the measures to be taken. They were there joined in commission with four other persons, selected as best acquainted with Ireland, and instructed to prepare a project. On the 12th of December they submitted to the Government a scheme for the settlement of the County of Tyrone, and on the 9th of January for the five other Counties.

It must have been in the interval between their first and second report that Bacon addressed to the King the following letter; of which the original is preserved in the Advocates' Library at Edinburgh; and there is a copy among Bacon's own papers at Lambeth,[1] docketed by himself—

A LETTER TO THE KING UPON PRESENTING MY DISCOURSE TOUCHING THE PLANTATION OF IRELAND.

TO THE KING'S MOST EXCELLENT MAJESTY.

It may please your excellent Majesty,

I knew not better how to express my good wishes of a good new-year to your Majesty, than by this little book, which in all humbleness I send you. The style is a style of business, rather than curious or elaborate. And herein I was encouraged by my experience of your Majesty's former grace, in accepting of the like poor field-fruits touching the Union. And certainly I reckon this action as a second brother to the Union. For I assure myself that England, Scotland, and Ireland well united is such a trefoil as no prince except yourself (who are the worthiest) weareth in his crown; *si potentia reducatur in actum.* I know well that for me to beat my brains about these things,

[1] Gib. Pap. VIII. fo. 281.

they may be *majora quam pro fortuna*; but yet they be *minora quam pro studio et voluntate*. For as I do yet bear an extreme zeal to the memory of my old mistress Queen Elizabeth, to whom I was rather bound for her trust than for her favour; so I must acknowledge myself much more bounden to your Majesty, both for trust and favour; whereof I will never deceive the one, as I can never deserve the other. And so in all humbleness kissing your Majesty's sacred hands, I remain

Your Majesty's most humble subject
and devote servant,
Fr. Bacon.

The discourse which accompanied this letter was first published in the *Resuscitatio* in 1657, probably from a manuscript remaining among Bacon's own papers, which afterwards passing into the possession of Lord Oxford came with the rest of the Harleian Collection into the British Museum. It is a copy in one of the hands usually employed by Bacon at that time, but bears no traces of his own except on the title, where the words "Presented to his Majesty, 1606," appear to have been inserted by himself. They were added, probably, in looking through his papers long after, when it was easy to make a mistake of a year or two; for the manuscript, as it stood originally, had no date; and that there was some doubt about it is proved by the fact that 1605 had been written first. It happens however luckily that 1606 is an *impossible* date in this case; for the paper itself contains allusions to things which certainly occurred later; and the direct evidence being thus necessarily set aside as inadmissible, we need not hesitate to accept the date assigned by Mr. Gardiner—Jan. 1, 1608–9; the only date which fits with everything. Chief Justice Popham died on the 7th of June, 1607, and is therefore properly described as the "Lord Chief Justice *deceased*," which he could not have been in 1606. Bacon became Solicitor-General on the 25th of June, 1607, and then (but not till then) could speak of himself as serving in the place which Popham held when Munster was planted. That this discourse was presented to the King on a New Year's Day, we learn from the letter which accompanied it. Now on no New Year's Day before that of 1608–9 could it have been said that the project had been digested already for the County of Tyrone: on no New Year's Day *after* that of 1608–9 could the project have been mentioned as digested for that county only. I conceive therefore that (the evidence of Bacon's

own handwriting notwithstanding,) the date here assigned to it must be accepted as unquestionably correct.

The copy here given is from the manuscript, from which the copy in the Resuscitatio appears to have been taken, and only to vary by accident.

CERTAIN CONSIDERATIONS TOUCHING THE PLANTATION IN IRELAND. PRESENTED TO HIS MAJESTY, 1606.[1]

TO THE KING,

It seemeth God hath reserved to your Majesty's times two works, which amongst the acts of kings have the supreme pre-eminence; the union and the plantation of kingdoms. For although it be a great fortune for a king to deliver or recover his kingdom from long continued calamities; yet in the judgment of those that have distinguished of the degrees of sovereign honour, to be a founder of estates or kingdoms excelleth all the rest; for as in arts and sciences to be the first inventor is more than to illustrate or amplify; and as in the works of God the creation is greater than the preservation; and as in the works of nature the birth and nativity is more than the continuance; so in kingdoms the first foundation or plantation is of more noble dignity and merit than all that followeth. Of which foundations there being but two kinds, the first that maketh one of more, and the second that makes one of none, the latter resembling the creation of the world, which was *de nihilo ad quid,* and the former the edification of the Church, which was *de multiplici ad simplex vel ad unum,* it hath pleased the divine providence, in singular favour to your Majesty, to put both these kinds of foundations or regenerations into your hand: the one in the union of the island of Britain, the other in the plantation of great and noble parts of the island of Ireland; which enterprises happily accomplished, then that which was uttered by one of the best orators in one of the worst verses, *O fortunatam natam me consule Romam,* may be far more truly and properly applied to your Majesty's acts; *natam te rege Britanniam; natam Hiberniam.* For he spake unproperly of deliverance and preservation; but in these acts of yours it may be verified more naturally. For indeed unions and plantations are the very nativities or birth-days of kingdoms. Wherein likewise

[1] Harl. MSS. 6797, fo. 122.

your Majesty hath yet a fortune extraordinary, and differing from former examples in the same kind. For most part of unions and plantations of kingdoms have been founded in the effusion of blood: but your Majesty shall build *in solo puro et in area pura,* that shall need no sacrifices expiatory for blood; and therefore no doubt under a higher and more assured blessing. Wherefore as I adventured when I was less known and less particularly bound to your Majesty than since by your undeserved favour I have been, to write somewhat touching the Union, which your Majesty was pleased graciously to accept, and which since I have to my power seconded by my travails, not only in discourse but in action: so I am thereby encouraged to do the like touching this matter of plantation; hoping that your Majesty will through the weakness of my ability discern the strength of my affection, and the honest and fervent desire I have to see your Majesty's person, name, and times, blessed and exalted above those of your royal progenitors. And I was the rather invited this to do, by the remembrance, that when the Lord Chief Justice deceased, Popham, served in the place wherein I now serve, and afterwards in the attorney's place, he laboured greatly in the last project touching the plantation of Munster. Which nevertheless, as it seemeth, hath given more light by the errors thereof what to avoid, than by the direction of the same what to follow.

First therefore, I will speak somewhat of the excellency of the work, and then of the means to compass and effect it.

For the excellency of the work, I will divide it into four noble and worthy consequences that will follow thereupon.

The first of the four is Honour; whereof I have spoken enough already, were it not that the Harp of Ireland puts me in mind of that glorious emblem or allegory wherein the wisdom of antiquity did figure and shadow out works of this nature. For the poets feigned that Orpheus, by the virtue and sweetness of his harp, did call and assemble the beasts and birds, of their nature wild and savage, to stand about him, as in a theatre; forgetting their affections of fierceness, of lust, and of prey; and listening to the tunes and harmonies of the harp; and soon after called likewise the stones and the woods to remove, and stand in order about him: which fable was anciently interpreted of the reducing and plantation of kingdoms; when people of barbarous

manners are brought to give over and discontinue their customs of revenge and blood and of dissolute life and of theft and rapine, and to give ear to the wisdom of laws and governments; whereupon immediately followeth the calling of stones for building and habitation, and of trees for the seats of houses, orchards, inclosures, and the like.

This work therefore, of all other most memorable and honourable, your Majesty hath now in hand; specially if your Majesty join the harp of David, in casting out the evil spirit of superstition, with the harp of Orpheus, in casting out desolation and barbarism.

The second consequence of this enterprise, is the avoiding of an inconvenience, which commonly attendeth upon happy times, and is an evil effect of a good cause. The revolution of this present age seemeth to incline to peace almost generally in these parts, and your Majesty's most Christian and virtuous affections do promise the same more specially to these your kingdoms. An effect of peace in fruitful kingdoms (where the stock of people receiving no consumption nor diminution by war doth continually multiply and increase) must in the end be a surcharge or overflow of people more than the territories can well maintain; which many times insinuating a general necessity and want of means into all estates, doth turn external peace into internal troubles and seditions. Now what an excellent diversion of this inconvenience is ministered by God's providence to your Majesty in this plantation of Ireland? wherein so many families may receive sustentations and fortunes, and the discharge of them also out of England and Scotland may prevent many seeds of future perturbations. So that it is as if a man were troubled for the avoidance of water from the place where he hath built his house, and afterwards should advise with himself to cast those waters and to turn them into fair pools or streams, for pleasure, provision, or use. So shall your Majesty in this work have a double commodity, in the avoidance of people here, and in making use of them there.

The third consequence is the great safety that is like to grow to your Majesty's estate in general by this act; in discomforting all hostile attempts of foreigners, which the weakness of that kingdom hath heretofore invited: wherein I shall not need to fetch reasons far off, either for the general or particular.

For the general, because nothing is more evident than that which

one of the Romans said of Peloponnesus: *Testudo intra tegumen tuta est;* the tortoise is safe within her shell: but if she put forth any part of her body, then it endangereth not only the part that is so put forth, but all the rest. And so we see in armour, if any part be left naked, it puts in hazard the whole person; and in the natural body of man, if there be any weak or affected part, it is enough to draw rheums or malign humours unto it, to the interruption of the health of the whole body.

And for the particular, the example is too fresh that the indisposition of that kingdom hath been a continual attractive of troubles and infestations upon this estate. And though your Majesty's greatness doth in some sort discharge this fear, yet with your increase of power it cannot be but envy is likewise increased.

The fourth and last consequence is the great profit and strength which is like to redound to your crown, by the working upon this unpolished part thereof: whereof your Majesty, being in the strength of your years, are like by the good pleasure of almighty God to receive more than the first fruits, and your posterity a growing and springing vein of riches and power. For this island being another Britain, as Britain was said to be another world, is endowed with so many dowries of nature, (considering the fruitfulness of the soil, the ports, the rivers, the fishings, the quarries, the woods and other materials, and specially the race and generation of men, valiant, hard, and active,) as it is not easy, no not upon the continent, to find such confluence of commodities, if the hand of man did join with the hand of nature. So then for the excellency of the work, in point of honour, policy, safety, and utility, here I cease.

For the means to effect this work, I know your Majesty shall not want the information of persons expert and industrious, which have served you there and know the region: nor the advice of a grave and prudent council of estate here, which know the pulses of the hearts of people, and the ways and passages of conducting great actions; besides that which is above all, which is that fountain of wisdom and universality which is in yourself. Yet notwithstanding in a thing of so public a nature it is not amiss for your Majesty to hear variety of opinion: for as Demosthenes saith well, the good fortune of a prince or state doth sometimes put a good motion into a fool's mouth. I do think therefore the means of accomplishing this work consisteth of two principal parts.

The first, the invitation and encouragement of undertakers; the second, the order and policy of the project itself. For as in all engines of the hand there is somewhat that giveth the motion and force, and the rest serveth to guide and govern the same: so it is in these enterprises or engines of estate. As for the former of these, there is no doubt, but next unto the providence and finger of God, which writeth these virtuous and excellent desires in the tables of your Majesty's heart, your authority and affection is *primus motor* in this cause. And therefore the more strongly and fully your Majesty shall declare yourself in it, the more shall you quicken and animate the whole proceeding. For this is an action, which as the worthiness of it doth bear it, so the nature of it requireth it to be carried in some height of reputation; and fit in mine opinion for pulpits and parliaments and all places to ring and resound of it. For that which may seem vanity in some things, (I mean matter of fame,) is of great efficacy in this case.

But now let me descend to the inferior spheres, and speak what co-operation in the subjects or undertakers may be raised and kindled, and by what means.

Therefore to take plain grounds, which are the surest: All men are drawn into actions by three things,—pleasure, honour, and profit. But before I pursue these three motives, it is fit in this place to interlace a word or two of the quality of the undertakers. Wherein my opinion simply is, that if your Majesty shall make these portions of land which are to be planted, as rewards or as suits, or as fortunes for those that are in want, and are likest to seek after them, that they will not be able to go through with the charge of good and substantial plantations, but will *deficere in opere medio;* and then this work will succeed, as Tacitus saith, *acribus initiis, fine incurioso.* So that this must rather be an adventure for such as are full, than a setting up of those that are low of means: for those men indeed are fit to perform these undertakings which were fit to purchase dry reversions after lives or years, or such as were fit to put out money upon long returns.

I do not say, but that I think the undertakers themselves will be glad to have some captains, or men of service, intermixed among them for their safety; but I speak of the generality of undertakers, which I wish were men of estate and plenty.

Now therefore it followeth well to speak of the aforesaid three motives. For it will appear the more how neeessary it is to allure by all means undertakers: sinee those men will be least fit whieh are like to be most in appetite of themselves; and those most fit whieh are like least to desire it.

First therefore for pleasure: in this region or traet of soil, there is no warm winters, nor orange-trees, nor strange beasts, or birds, or other points of curiosity or pleasure, as there are in the Indies and the like: so as there ean be found no foundation made upon matter of pleasure, otherwise than that the very general desire of novelty and experiment in some stirring natures may work somewhat; and therefore it is the other two points, of honour and profit, whereupon we are wholly to rest.

For honour or countenanee, if I shall mention to your Majesty whether in wisdom you shall think eonvenient, the better to express your affeetion to the enterprise and for a pledge thereof, to add the Earldom of Ulster* to the Prinee's titles, I shall but learn it out of the praetiee of King Edward I., who first used the like eourse, as a mean the better to restrain the eountry of Wales: and I take it the Prinee of Spain hath the addition of a provinee in the kingdom of Naples: and other preeedents I think there are: and it is like to put more life and eneouragement into the undertakers.

Also, eonsidering the large territories which are to be planted, it is not unlike your Majesty will think of raising some nobility there; whieh if it be done merely upon new titles of dignity, having no manner of referenee to the old; and if it be done also without putting too many portions into one hand; and lastly if it be done without any great franehises or eommands, I do not see any peril ean ensue thereof: as on the other side it is like it may draw some persons of great estate and means into the aetion, to the great furtheranee and supply of the eharges thereof.

And lastly for knighthood to sueh persons as have not attained it; or otherwise knighthood with some new differenee and preeedenee; it may no doubt work with many. And if any man think that these things which I propound are *aliquid nimis* for the proportion of this aetion, I eonfess plainly, that if your Majesty will have it really and effeetually performed, my opinion is, you eannot bestow too mueh sunshine upon it. For *lunæ radiis non maturescit botrus.* Thus much for honour.

For profit, it will consist in three parts:

First, the easy rates that your Majesty shall be pleased to give the undertakers of the land they shall receive.

Secondly, the liberties which you may be pleased to confer upon them. When I speak of liberties, I mean not liberties of jurisdiction, as Counties Palatine, or the like, (which as it seemeth hath been the error of the ancient donations and plantations in that country,) but I mean only liberties tending to commodity; as liberty to transport any of the commodities growing upon the countries new planted; liberty to import from hence all things appertaining to their necessary use, custom-free; liberty to take timber or other materials in your Majesty's woods there, and the like.

The third is, ease of charge; that the whole mass of charge doth not rest upon the private purse of the undertakers.

For the two former of these, I will pass them over; because in that project which with good diligence and providence hath been presented to your Majesty by your ministers of that kingdom, they are in my opinion well handled.

For the third, I will never despair but that the parliament of England, if it may perceive that this action is not a flash, but a solid and settled pursuit, will give aid to a work so religious, so politic, and so profitable. And the distribution of charge (if it be observed) falleth naturally into three kinds of charge, and every of those charges respectively ought to have his proper fountain and issue. For as there proceedeth from your Majesty's royal bounty and munificence the gift of the land and the other materials, together with the endowment of liberties; and as the charge which is private, as building of houses, stocking of grounds, victual, and the like, is to rest upon the particular undertakers: so whatsoever is public, as building of churches, walling of towns, town-houses, bridges, causies, or highways, and the like, ought not so properly to lie upon particular persons, but to come from the public estate of this kingdom; to which this work is like to return so great an addition of glory, strength, and commodity.

For the project itself, I shall need to speak the less, in regard it is so considerately digested already for the county of Tyrone: and therefore my labour shall be but in those things wherein I shall either add to or dissent from that which is set down; which will include five points or articles.

First, they mention a commission for this plantation: which of all things is most necessary both to direct and appease controversies and the like.

To this I add two propositions. The one, that which perhaps is meant though not expressed; that the commissioners should for certain times reside and abide in some habitable town of Ireland near in distance to the country where the plantation shall be; to the end both that they may be more at hand for the execution of the parts of their commission; and withal it is like, by drawing of concourse of people and tradesmen to such town, it will be some help and commodity to the undertakers for things they shall stand in need of. And likewise it will be a more safe place of receipt and store, wherein to unlade and deposit such provisions as are after to be employed.

The second is that your Majesty would make a correspondency between the commission there, and a council of plantation here. Wherein I warrant myself by the precedent of the like council of plantation for Virginia; an enterprise in my opinion differing as much from this, as Amadis de Gaul differs from Cæsar's Commentaries. But when I speak of a council of plantation, I mean some persons chosen by way of reference, upon whom the labour may rest to prepare and report things to the council of estate here, that concern that business. For although your Majesty have a grave and sufficient council in Ireland, from whom and upon whom the commissioners are to have assistance and dependance; yet that supplies not the purpose whereof I speak. For considering that upon advertisements as well of the commissioners as of the council of Ireland itself there will be many occasions to crave directions from your Majesty and your privy council here, which are busied with a world of affairs; it cannot but give greater expedition, and some better perfection unto such directions and resolutions, if the matters may be considered of aforehand by such as may have a continual care of the cause. And it will be likewise a comfort and satisfaction to some principal undertakers, if they may be admitted of that council.

Secondly, there is a clause wherein the undertakers are restrained, that they shall execute the plantation in person; from which I must dissent, if I will consent with the grounds I have already taken. For it is not probable that men of great means and plentiful estate will endure the travel, discasements, and ad-

ventures of going thither in person: but rather, I suppose, many will undertake portions as an advancement for their younger children or kinsfolks, or for the sweetness of the expectation of a great bargain in the end, when it is overcome. And therefore it is like they will employ sons, kinsfolks, servants, or tenants, and yet be glad to have the estate in themselves. And it may be, some again will join their purses together and make as it were a partnership or joint adventure, and yet man forth some one person by consent for the executing of the plantation.

Thirdly, there is a main point wherein I fear the project made hath too much of the line and compass, and will not be so natural and easy to execute, nor yet so politic and convenient: and that is that the buildings should be *sparsim* upon every portion, and the castle or principal house should draw the tenements and farms about it as it were into villages, hamlets, or endships; and that there should be only four corporate towns for artificers and tradesmen.

My opinion is, that the building be altogether in towns, to be compounded as well of husbandries as of arts. My reasons are,

First, when men come into a country vast and void of all things necessary for the use of man's life, if they set up together in a place, one of them will the better supply the wants of another: work-folks of all sorts will be the more continually set a-work without loss of time, when if work fail in one place they may have it fast by; the ways will be made more passable for carriages to those seats or towns than they can be to a number dispersed solitary places; and infinite other helps and easements, scarcely to be comprehended in cogitation, will ensue of vicinity and society of people: whereas if they build scattered, as is projected, every man must have a cornucopia in himself for all things he must use; which cannot but breed much difficulty and no less waste.

Secondly, it will draw out of the inhabited country of Ireland provisions and victuals and many necessaries, because they shall be sure of utterance: whereas in the dispersed habitations, every man must reckon only upon that that he brings with him, as they do in provisions of ships.

Thirdly, the charge of *Bawnes*, as they call them, to be made about every castle or house, may be spared, when the habitations shall be congregated only into towns.

And lastly, it will be a means to secure the country against future perils, in case of any revolt and defection: for by a slight fortification of no great charge, the danger of any attempts of kierns and sword-men may be prevented; the omission of which point in the last plantation of Munster made the work of years to be but the spoil of days. And if any man think it will draw people too far off from the grounds they are to labour, it is to be understood that the number of the towns be increased accordingly and likewise the situation of them be as in the centre in respect of the portions assigned to them. For in the champion countries of England, where the habitation useth to be in towns, and not dispersed, it is no new thing to go two miles off to plough part of their grounds; and two mile compass will take up a good deal of country.

The fourth point is a point wherein I shall differ from the project rather in quantity and proportion than in matter. There is allowed to the undertaker, within the five years of restraint, to alien a third part in fee farm, and to demise another third for forty years: which I fear will mangle the portions, and will be but a shift to make money of two parts; whereas I am of opinion, the more the first undertaker is forced to keep in his own hands, the more the work is like to prosper. For first, the person liable to the state here to perform the plantation is the immediate undertaker. Secondly, the more his profit dependeth upon the annual and springing commodity, the more sweetness he will find in putting forward manurance and husbanding of the grounds, and therefore is like to take more care of it. Thirdly, since the natives are excluded, I do not see that any persons are like to be drawn over of that condition, as are like to give fines, and undertake the charge of building. For I am persuaded that the people transported will consist of gentlemen and their servants, and of labourers and hinds, and not of yeomen of any wealth: and therefore the charge of building, as well of the tenements and farms, as of the capital houses themselves, is like to rest upon the principal undertakers; which will be recompensed in the end to the full, and with much advantage, if they make no long estates or leases. And therefore this article to receive some qualification.

Fifthly, I should think it requisite that men of experience in that kingdom should enter into some particular consideration of

the charges and provisions of all kinds that will be incident to the plantation, to the end that thereupon some advice may be taken for the furnishing and accommodating them most conveniently, aiding private industry and charge with public care and order.

Thus I have expressed to your Majesty those simple and weak cogitations, which I have had in myself touching this cause; wherein I most humbly desire your pardon, and gracious acceptance of my good affection and intention. For I hold it for a rule that there belongeth to great monarchs from faithful servants not only the tribute of duty, but the oblations of cheerfulness of heart. And so I pray the Almighty to bless this great action with your Majesty's care, and your care with happy success.

This was the beginning of the attempt to reclaim the north of Ireland (hitherto the most unmanageable part of it) to obedience and security. How it succeeded, I shall have occasion to enquire hereafter. The proposed measures would necessarily require time, first to be carried out, and afterwards to produce their fruits. For a while therefore we may leave these "Considerations," as seed thrown into the ground, and look for the crop in its due season.

CHAPTER IV.

A.D. 1609. ÆTAT. 49.

1.

The "Matter of Prohibitions,"—that is, the dispute as to jurisdiction between the Courts at Westminster and the Provincial Councils of Wales and the North,—was evidently much upon Bacon's mind in July, 1608. "To be prepared in the matter of Prohibitions" (p. 43)—"To write some treatise of advice touching Prohibitions and Jurisdictions of Courts" (p. 54)—"To advise some course for the Council of the Marches and the North . . . qu. of limitation by Parliament" (p. 55)—"M^d^ the point of the 4 shires, and to think to settle a course in it" (p. 59) :—these are all memoranda set down at different times on the same day. The fact is that the attempt which had been made twelve months before to settle the dispute as far as it concerned the Marches of Wales, where it first arose, had not proved effectual. It had been hoped that under the reformed instructions with which the new President was sent out in the summer of 1607, the controversy would have been allowed to sleep ;—the rather because the Judges had had time to reconsider the question, and to understand the inconvenience of the course to which they had (somewhat inadvertently, as it was thought,) committed themselves. But it did not turn out so. Prohibitions were still applied for, which the Judges still thought it their duty to grant; till at length on the 6th of November, 1608, in order to bring the matter to a direct issue, a Council was held in the King's presence, at which the question "whether the article of the Instructions to the President touching the hearing of causes within the 4 shires under 10*l.* were agreeable to the law," was distinctly raised. And when Coke, now Chief Justice of the Common Pleas, begged to be excused from giving an answer in that presence and on the sudden, it was agreed that the case should be regularly argued by Counsel before the Judges; and that they, having first heard what the Counsel for the Crown and for the President had to say in de-

fence of the article, and then "what any could say against the same," should "return their report, what they had heard on both sides, and so leave the judgment to the King."[1]

As Solicitor-General, Bacon was one of the counsel employed to maintain the jurisdiction of the Provincial Court over the 4 shires, and he thought well enough of his work to include a report of his speech and reply among his "arguments of law in great and difficult cases." They were delivered apparently in Hilary Term, 1608–9, and (being strictly professional both in character and occasion) will be found among the Professional Works, Vol. VII. p. 567. But as compositions to which he himself attached a more than fugitive value, and as marking an important stage in a constitutional controversy of which we have already heard a good deal and shall yet hear more, (for they do not seem to have converted the Judges,) this notice of them in this place will not be found superfluous.

The rest of the year 1609 appears to have been a very quiet one for Bacon; and the records which remain of his occupations are comparatively few and meagre. The letters, however, which follow will give some light as to what they were, and serve to remind us that those portions of his life which make least show in this collection were not therefore the least active or the least fruitful.

2.

"For equalling laws" [that is, for reducing the laws of England and Scotland into a consistent code by way of preparation for a perfect union of the nations] "to proceed with my method, and to show the King the title of Prerogative, as it is done:"—this was one of the memoranda set down on the 6th of August, 1608. And it was probably in pursuance of this object that on the 27th of February, 1608–9, he addressed the following letter, the original of which is preserved in the library of the Inner Temple, to Mr. Bowyer: whom I suppose to be Robert Bowyer, clerk and keeper of the Rolls of Chancery and all other Rolls and Records in the Tower.

Mr. Bowyer,[2]

I remember I borrowed once of Mr. Heneage a collection of his (a large one) made of certain records, specially such as concerned the King's prerogative and grants and ordinances, and other matters of that nature. Of this I doubt not but you

[1] Lansd. MSS. 160, p. 410.

[2] Inner Temple Library, 9 (5 and 6) 538, No. 17, fo. 279, orig. own hand.

have copies; and therefore my request is that you will lend me one of them, for some time, and it shall be safely restored to you; and if it have been since enriched by new additions of your own, I shall be the more beholding to you. So I remain,

Your loving friend,

Fr. Bacon.

This 27th of Feb. 1608.

It is possible that the manuscript in the British Museum (Harl. MSS. 7017, 43) mentioned in Mr. Heath's general preface to the Professional Works,—being a collection of the common law relating to the Prerogative,—was drawn up with reference to this business. And there are one or two other fragments of "preparation for the union of laws," which will be found towards the end of the volume. But as the project of a legislative union did not prosper and had soon after to be abandoned as intractable, these beginnings of the work would naturally be laid aside along with it, to wait for a more favourable season; which did not come.

3.

Two or three letters to Salisbury, confined, as usual, to matters of ordinary official routine, are chiefly valuable as confirming our previous impression of the relation between the men, and showing that it continued unchanged. And a very singular fact it is that (the desire on *Bacon's* part to be on more intimate terms with his cousin being so strong as by the evidence of the Commentarius we know it to have been) the only communications between them of which chance has preserved any record should be of this remarkably colourless character.

Concerning the matters of which they treat I have not been able to discover any particulars, more than may be gathered from the letters themselves.

To the Earl of Salisbury.[1]

It may please your Lordship,

The assurance which by your Lordship's direction was to be passed to his Majesty by Richard Forebench, one of the yeomen of the Guard, of Potter's Park, within the parish of Chertsey, in the county of Surrey, is thoroughly perfected; so as if your

[1] S. P. Dom. James I., vol. xlvii. No. 12. Orig.

Lordship so please, he may receive the money your Lordship agreed to pay for it.

Your Ls. most humble and bounden,

FR. BACON.

Gray's Inn, the 6th of July 1609.

TO THE SAME.[1]

It may please your good Lordship,

Though Mr. Chancellor and we rested upon the old Proclamation which Mr. Attorney brought forth, for matter of transportation of gold and silver, yet because I could not tell whether it were that your Lordship looked for from us, and because if you should be of other opinion things mought be in readiness, I send your Lordship a draught of a new Proclamation, wherein I have likewise touched the point of change in that manner as was most agreeable to that I conceived of your intent.

The Frenchman, after I had given him a day, which was the morrow after your Lordship's departure, never attended nor called upon the matter since. Sir He. Nevell hath sent up a solicitor of the cause, to whom I perceive by Mr. Calvert your Lordship is pleased a copy of his answer when it shall be taken may be delivered. So praying for your good health and happiness I humbly take my leave. From Gray's Inn this 10th of August 1609.

Your L. most humble and bounden,

FR. BACON.

TO THE SAME.[2]

It may please your Lordship,

According to your Lordship's letter I send an abstract of the bonds and conditions touching the depopulations, whereby it will appear unto your Lordship that all the articles and branches of the condition consist only of matter of reformation in the country, and not of any benefit to the King, otherwise than that the forfeiture in point of law belongeth to his Majesty;

[1] S. P. Dom. James I. vol. xlvii. No. 74. Orig. own hand.
[2] S. P. Dom. James I. vol. xlviii. No. 37. Orig. own hand. Docketed 14th Sept., 1609.

but then the reformation is at large. So I very humbly take my leave.

Your Lordship's most humble and bounden,

Fr. Bacon.

Gray's Inn the xiiith of Sept. 1609.

4.

There is likewise a letter to Sir Michael Hickes, relating to some commission concerning the King's service in which Bacon was engaged about this time: but I have not succeeded in discovering what the business was. So many names however being mentioned in connexion with it, we may conclude that if it had been a thing of importance traces would have remained by which it might have been identified: and so the failure of the search may be taken as a kind of evidence that the thing would not be worth finding.

To Sir Michael Hickes.[1]

Sir,

There is a commission touching the King's service to be executed at your house on Tuesday next; The Commissioners are Mr. Recorder of London, Sir John Bennett, Sir Thomas Bodley, and myself. There are blanks left for other names such as you in your wisdom shall think fit to fill. Mr. Horden is wished, for the better countenance of the service, and Sir Thomas Lowe is spoken of, but these and others are wholly left unto you. It will take up a whole afternoon, and therefore no remedy but we must dine with you; but for that you are not so little in grace with Mr. Chancellor but you may have allowance, the Exchequer being first full; hereof I thought most necessary to give you notice. So I remain

Your assured guest and friend,

Fr. Bacon.

This Sunday at afternoon.

[August 6. 1609[2]].

5.

But if the records of Bacon's official work are unusually scanty this year, we have, on the other hand, more news than usual of a work which is as much more interesting to us now, as it was to himself then. Owing to the banishment of his friend Toby Matthew, by

[1] Lansd. MSS. xci. fo. 93. Original; own hand; all but the date.

[2] The words within brackets are in another hand.

which a personal intercourse which would have passed unrecorded was turned into an intercourse by letters, some of which have been preserved, we get this year a little information as to the progress of the Great Instauration. Most of the letters are unluckily without date, and the writings enclosed or referred to are not always recognisable by the description. But the allusions are intelligible enough to justify a conjecture as to the order in which they were written, and if they be read in connexion with the third part of the Philosophical works as set out in this edition, (see especially pp. 523–620 of Vol. III.) we may learn from them a good deal that we should not otherwise have known as to the course and the spirit in which the great enterprise was proceeding.

Some of them come from his own collection, and some from Sir Toby Matthew's; and I have arranged them in the order which seems to me most probable. As to the particular dates of each, there is scarcely enough to hang a conjecture on. Toby Matthew, as I have already had occasion to observe, appears to have purposely obliterated or disguised names and particulars; and if the headings were inserted by himself (which is doubtful—for the collection was not published till after his death) we must conclude that he had either forgotten the dates or intended to confuse and conceal them.

The first letter comes from Bacon's collection; and must have been written late enough in 1609 to allow time for the news of Duke Ferdinand's death (17 Feb., 1608–9) to have reached England: and probably not much later; because it carried a copy of the *In felicem memoriam Elizabethæ;* of which there were copies in circulation as early as December, 1608.

A Letter to Mr. Matthew, touching Instauratio Magna.[1]

Mr. Matthew,

I heartily thank you for your letter of the 10th of February, and am glad to receive from you matter both of encouragement and advertisement touching my writings. For my part I do wish that since there is almost no *lumen siccum* in the world, but all *madidum* and *maceratum,* infused in affections and bloods or humours, that these things of mine had those separations that might make them more acceptable; so that they claim not so much acquaintance of the present times, as they be thereby the less like to last. And to shew you that I have some purpose to new-mould them, I send you a leaf or two of the Pre-

[1] Addl. MSS. 5503. fo. 33 b. compared with *Resuscitatio*, p. 37.

face, carrying some figure of the whole work: wherein I purpose to take that which I count real and effectual of both writings; and chiefly to add pledge if not payment to my promise.[1] I send you also a memorial of Queen Elizabeth, to requite your elogy of the late Duke of Florence's felicity.[2] Of this, when you were here, I shewed you some model; though at that time methought you were more willing to hear Julius Cæsar than Queen Elizabeth commended. But this which I send is more full, and hath more of the narrative: and further, hath one part that I think will not be disagreeable either to you or that place; being the true tracks of her proceedings towards the Catholics, which are infinitely mistaken. And though I do not imagine they will pass allowance there, yet they will gain your excuse.[3] I find Mr. Le Zure[4] to use you well (I mean his tongue of you), which shews you either honest or wise. But this I speak merrily. For in good faith I do conceive hope that you will so govern yourself, as we may take you as assuredly for a good subject and patriot, as you take yourself for a good Christian; and so we may again enjoy your company, and you your conscience, if it may no otherwise be. For my part, assure yourself that (as we say in the law) *mutatis mutandis*, my love and good wishes to you are not diminished. And so I remain—

The next letter comes from Sir Toby Matthew's collection, where it is printed with the following heading:—"Mr. Bacon, by way of advertisement of several things in a familiar way, to the same friend and servant of his." This, if correct, would imply that it was written before the 23rd of July, 1603, when Mr. Bacon became Sir Francis: but that cannot be; for the *Advancement of Learning* was not then in existence. The evidence of the heading being set aside therefore as inadmissible, we are left free to choose the date which seems likeliest. And the terms in which Matthew's state of mind is spoken of, in connexion with 'loyalty,' 'honesty,' 'native country,' and 'trust with the state,' seem to me to carry a silent allusion to his

[1] The copy in the 'Resuscitatio' has *promises*, with only a comma after it, as if this clause referred to the Memorial of Elizabeth. I follow the MS.

[2] Ferdinand I. de Medici died 17th Feb., 1608–9. I suppose, therefore, that the 'elogy' had been written before, though I doubt whether Birch was right in supposing it to be alluded to in the expression "flowers of Florence," vol. iii. p. 256. I believe the old style was still in use in Florence.

[3] *Upon excuse* in Res.

[4] "Le Sieur is returned from Florence *re infectâ*." Chamberlain to Carlton, 3 Jan., 1608–9.

change of religion: in which case it cannot be placed earlier than 1608. How much later I find no means of determining.

To MR. MATTHEW.[1]

Sir,

Two letters of mine are now already walking towards you; but so that we might meet, it were no matter though our letters should lose their way. I make a shift in the mean time to be glad of your approaches, and would be more glad to be an agent for your presence, who have been a patient by your absence. If your body by indisposition make you acknowledge the healthful air of your native country, much more do I assure myself that you continue to have your mind no way estranged. And as my trust with the state is above suspicion, so my knowledge both of your loyalty and honest nature will ever make me show myself your faithful friend without scruple. You have reason to commend that gentleman to me, by whom you sent your last, although his having travelled so long amongst the sadder nations of the world make him much the less easy upon small acquaintance to be understood. I have sent you some copies of my book of the *Advancement*, which you desired; and a little work of my recreation, which you desired not. My *Instauration* I reserve for our conference; it sleeps not. Those works of the *Alphabet* are in my opinion of less use to you where you are now, than at Paris; and therefore I conceived that you had sent me a kind of tacit countermand of your former request. But in regard that some friends of yours have still insisted here, I send them to you; and for my part, I value your own reading more than your publishing them to others. Thus, in extreme haste, I have scribbled to you I know not what, which therefore is the less affected, and for that very reason will not be esteemed the less by you.

What these "works of the alphabet" may have been, I cannot guess; unless they related to Bacon's cipher; in which by means of two alphabets, one having only two letters, the other having two forms for each of the twenty-four letters, any words you please may be so written as to signify any other words, provided only that the open writing contains at least five times as many letters as the concealed. (See Phil. Works, Vol. I. p. 659). It is not impossible that

[1] Sir Toby Matthew's Collection of Letters, p. 14.

a man in Matthew's position may have needed a safe cipher, and may have needed it more at Paris than in Italy or Spain.

The next letter, which is from the same collection, is headed "Mr. Francis Bacon to a dear friend, concerning some of his works in writing." And here again the "Mr." must be wrong. The allusion to "that of Queen Elizabeth," coupled with the report he had received of it from "the Leiger at Paris," leaves no room for doubt that this letter was written while Sir George Cary was still ambassador in France; therefore before October, 1609: and though it contains no particulars which enable us to fix the exact date, I see nothing to prevent us from assigning it to the summer of that year; which, supposing the letter which conveyed the *In felicem memoriam Elizabethæ* to have been despatched in March or April, would allow time enough for the arrival of Matthew's answer.

To Mr. Matthew.[1]

Sir,

I thank you for your last, and pray you to believe that your liberty in giving opinion of those writings which I sent you, is that which I sought, which I expected, and which I take in exceeding good part; so good as that it makes me recontinue, or rather continue, my hearty wishes of your company here, that so you might use the same liberty concerning my actions which now you exercise concerning my writings. For that of Queen Elizabeth, your judgment of the temper and truth of that part which concerns some of her foreign proceedings concurs fully with the judgment of others, to whom I have communicated part of it; and as things go, I suppose they are likely to be more and more justified and allowed. And whereas you say, for some other part, that it moves and opens a fair occasion and broad way into some field of contradiction: on the other side it is written to me from the leiger at Paris, and some others also, that it carries a manifest impression of truth with it, and that it even convinces as it goes. These are their very words; which I write not for mine own glory, but to show what variety of opinion rises from the disposition of several readers. And I must confess my desire to be, that my writings should not court the present time, or some few places, in such sort as might make them either less general to persons, or less permanent in future ages. As for the *Instauration*, your so full approbation

[1] Sir Toby Matthew's Collection of Letters, p. 12.

thereof I read with much comfort, by how much more my heart is upon it; and by how much less I expected consent and concurrence in a matter so obscure. Of this I can assure you, that though many things of great hope decay with youth (and multitude of civil businesses is wont to diminish the price, though not the delight, of contemplations), yet the proceeding in that work doth gain with me upon my affection and desire, both by years and businesses. And therefore I hope, even by this, that it is well pleasing to God, from whom and to whom all good moves. To Him I most heartily commend you.

At last we come to a letter with a date:—a date which may be taken as conclusive of the time when it was *written;* and as no question that I know of depends upon the time when it was received, it will serve our purpose as well as if it had been despatched and delivered in due course. It is addressed to Toby Matthew, and was meant to accompany another piece of the *Instauratio Magna.* Already in a former letter, as we have seen, he had sent him "a leaf or two of the Preface, carrying some figure of the whole work; wherein he purposed to take what he counted real and effectual of both writings." This may perhaps have been the very *Præfatio* which introduces the *Distributio operis* (Vol. I. p. 125), which was designed to stand as Preface to the whole *Instauratio*, and the argument of which is thus announced: *De statu scientiarum, quod non sit felix aut in majorem modum auctus; quodque alia omnino quam prioribus cognita fuerit via aperienda sit intellectui humano, et alia comparanda auxilia, ut mens suo jure in rerum naturam uti possit.* "That the state of knowledge is not prosperous nor greatly advancing: and that a way must be opened for the human understanding entirely different from any hitherto known; and other helps provided; in order that the mind may exercise over the nature of things the authority which properly belongs to it." Whatever it was, it seems that Matthew highly approved and applauded it, taking exceptions, however to some other parts of the work, as likely to offend the Churchmen. Bacon now proposed to send him another piece,—which is supposed by M. Bouillet[1] to have been the *Redargutio Philosophiarum.* And certainly the terms in which it is spoken of are exactly applicable to that fine composition; the most perfect piece, perhaps, for form and execution that Bacon left behind him: in which, under the form of a speech supposed to be addressed by a philosopher in Paris to an assembly of sages, the whole subject of

[1] Œuvres Philosophiques de Bacon, vol. ii. p. 46.

what he afterwards called the Idols of the Theatre is fully and finely handled. It will be found in Vol. III. pp. 557–585 : and any one who compares it with the *Præfatio* just mentioned will, I think, admit that the two are to each other as the fist and the open hand : the *Redargutio* being a development of the same argument on a larger scale.

The letter which was to have accompanied it comes from Bacon's own collection ; and runs thus :—

A Letter to Mr. Matthew, upon sending to him Part of 'Instauratio Magna.'[1]

Mr. Matthew,

I plainly perceive by your affectionate writing touching my work, that one and the same thing affecteth us both ; which is the good end to which it is dedicate ; for as to any ability of mine, it cannot merit that degree of approbation. For your caution for church-men and church-matters, as for any impediment it might be to the applause and celebrity of my work, it moveth me not ; but as it may hinder the fruit and good which may come of a quiet and calm passage to the good port to which it is bound, I hold it a just respect ; so as to fetch a fair wind I go not too far about. But the troth is, I shall have no occasion to meet them in my way, except it be as they will needs confederate themselves with Aristotle, who, you know, is intemperately magnified with the schoolmen ; and is also allied (as I take it) to the Jesuits, by Faber, who was a companion of Loyola, and a great Aristotelian. I send you at this time the only part which hath any harshness ; and yet I framed to myself an opinion, that whosoever allowed well of that preface which you so much commend, will not dislike, or at least ought not to dislike, this other speech of preparation ; for it is written out of the same spirit, and out of the same necessity. Nay it doth more fully lay open that the question between me and the ancients is not of the virtue of the race, but of the rightness of the way. And to speak truth, it is to the other but as *palma* to *pugnus*, part of the same thing more large. You conceive aright that in this and the other you have commission to impart and communicate them to others according to your discretion. Other matters I write not of. Myself am like the miller of Huntingdon,[2] that was wont to pray for peace amongst the

[1] Addl. MSS. 5503 fo. 33.

[2] *Grancester* in Res.

willows; for while the winds blew, the wind-mills wrought, and the water-mill was less customed. So I see that controversies of religion must hinder the advancement of sciences. Let me conclude with my perpetual wish towards yourself, that the approbation of yourself, by your own discreet and temperate carriage, may restore you to your country, and your friends to your society. And so I commend you to God's goodness.

Gray's-Inn, this 10th of October, 1609.

It seems that this letter had to wait some time for its enclosure, the paper which was to go with it not being finished, or the copy not made; and before it was despatched the friend through whom it should have been forwarded, and who was a friend of Matthew's as well as Bacon's, died. The addition of such a piece of news induced Bacon to write his letter over again; and so both copies have been preserved for us, the first in his own collection and the second in Matthew's. There can be no doubt that this is the true history of the relation between them. Except for the mention of the friend's death, and a parting word on the *In felicem memoriam* (of which Bacon was probably reminded in reading over again Matthew's last letter), it will be seen that the subject and substance of the two is the same, and the differences only such as would naturally occur in different versions of the same thing by the same man—the later being the more concise.

To this, which we owe to Matthew, he or his editor has prefixed the following heading. "Sir Francis Bacon to the same person upon the like subject" [that is "to a friend about reading and giving opinion upon his writings"] "with an addition of condoling the death of a friend." But the name of this friend, according to the strange rule which he seems to have laid down for himself, and which has so much diminished the value and interest of his collection, he has thought fit to suppress. I have no doubt however that it was Sir Thomas Smith,—the same of whom in 1607 Bacon desired Sir Thomas Bodley to "send him some good news,"[1] and who died on the 28th of November, 1609. He was a student of Christ Church, and became acquainted with Bacon probably in his early life through his connexion with the Earl of Essex, to whom he was at one time secretary. Birch mentions him as "almost the only person advanced from the Earl's service to higher posts: being made Clerk of the Council, and Register of the Parliament, and afterwards Secretary of the Latin tongue, and one of the Masters of the Requests."[2] He

[1] See Vol. III. p. 366.
[2] Mem. of Eliz. I. p. 112.

was knighted by K. James on the 20th of May, 1603; and was a friend of Carleton, Edmunds, and Winwood, from whose correspondence we learn that he had been ill all the summer. He was buried at Fulham, where a very simple and graceful epitaph in Latin tells who he was; and it seems a pity that an editor's crotchet should have so long defrauded his name of this other memorial, which he would not have valued less.

The date of the letter must have been December, 1609—probably early in December.

To Mr. Matthew.[1]

Sir,

The reason of so much time taken before my answer to yours of the fourth of August, was chiefly my accompanying my letter with the paper which here I send you; and again, now lately, (not to hold from you till the end of a letter, that which by grief may, for a time, efface all the former contents,) the death of your good friend and mine A. B. to whom because I used to send my letters for conveyance to you, it made me so much the more unready in the dispatch of them. In the mean time I think myself (howsoever it have pleased God otherwise to bless me) a most unfortunate man, to be deprived of two (a great number in true friendship) of those friends whom I accounted as no stage-friends, but private friends, (and such, as with whom I might both freely and safely communicate), him by death, and you by absence. As for the memorial of the late deceased Queen, I will not question whether you be to pass for a disinteressed man or no; I freely confess myself am not, and so I leave it. As for my other writings, you make me very glad of your approbation; the rather because you add a concurrence of opinion with others; for else I might have conceived that affection would perhaps have prevailed with you, beyond that which (if your judgment had been neat and free) you could have esteemed. And as for your caution touching the dignity of ecclesiastical persons, I shall not have cause to meet with them any otherwise, than in that some school men have with excess advanced the authority of Aristotle. Other occasion I shall have none. But now I have sent you that only part of the whole writing, which may perhaps have a little harshness and provocation in it: although I may almost secure myself, that if

[1] Sir Toby Matthew's Collection of Letters, p. 23.

the preface passed so well, this will not irritate more, being indeed to the preface but as *palma ad pugnum*. Your own love expressed to me, I heartily embrace; and hope that there will never be occasion of other than intireness between us; which nothing but *majores charitates* shall ever be able to break off.

6.

All this time the great pen-and-ink war between the King and the Pope had been growing hotter and spreading wider. The King's book in defence of the oath of allegiance against the Pope's breve had been answered by Cardinal Bellarmin: and as it was not according to the laws of the duello that a Cardinal should be answered by a King, some champion of inferior rank had to be appointed to meet him, and the man chosen was Bishop Andrewes: one of many things which ought to be remembered to the credit of James's judgment and taste, better than they are.

"We say," says Chamberlain writing to Carleton on the 21st of October, 1608, "that the Bishop of Chichester is appointed to answer Bellarmin about the oath of allegiance; which task I doubt how he will undertake and perform, being so contrary to his disposition and course to meddle with controversies." And again on the 11th of November—"I thank you for your remonstrance of the French clergy, which will give me occasion perhaps to visit the good Bishop of Chichester; though I doubt he be not at leisure for any bye matters, the King doth so hasten and spur him on in this business of Bellarmin's; which he were likely to perform very well (as I hear by them that can judge) if he might take his own time, and not be troubled nor entangled with arguments obtruded to him continually by the King."

In this warfare Bacon took no part, and apparently not much interest. He was in eager pursuit of an object to which he regarded such disputes as impediments. He saw that "controversies of religion hindered the advancement of the sciences;" and as the miller of Huntingdon prayed for peace among the willows, he prayed for peace among the theologians. I am not called upon therefore to enter further into that famous dispute, and I mention it chiefly for its bearing upon the date of the next letter. We hear of Bishop Andrewes's book being in the press in June, 1609. On the 22nd of September he was translated from Chichester to Ely. If we suppose that about that time Bacon sent him a copy of the *Cogitata et Visa* with the last additions and amendments, (for though we have heard of a work with that title being in circulation two years before,[1] we

[1] See Chap. VIII. § 1.

must think that the copy which has come down to us was the fruit of more vacations than one) the letter which follows will need no further explanation or introduction. It comes from Bacon's own collection.

A Letter to the Bishop of Ely, upon sending his writing intitled 'Cogitata et Visa'.[1]

My very good Lord,

Now your Lordship hath been so long in the church and the palace, disputing between kings and popes, methinks you should take pleasure to look into the field, and refresh your mind with some matter of philosophy; though that science be now through age waxed a child again, and left to boys and young men; and because you were wont to make me believe you took liking to my writings, I send you some of this vacation's fruits; and thus much more of my mind and purpose. I hasten not to publish; perishing I would prevent. And I am forced to respect as well my times as the matter. For with me it is thus, and I think with all men in my case: if I bind myself to an argument, it loadeth my mind; but if I rid my mind of the present cogitation, it is rather a recreation. This hath put me into these miscellanies; which I purpose to suppress, if God give me leave to write a just and perfect volume of philosophy, which I go on with though slowly. I send not your Lordship too much, lest it may glut you. Now let me tell you what my desire is. If your Lordship be so good now, as when you were the good Dean of Westminster, my request to you is, that not by pricks, but by notes, you would mark unto me whatsoever shall seem unto you either not current in the style, or harsh to credit and opinion, or inconvenient for the person of the writer; for no man can be judge and party: and when our minds judge by reflection of ourselves, they are more subject to error. And though for the matter itself my judgment be in some things fixed, and not accessible by any man's judgment that goeth not my way: yet even in those things, the admonition of a friend may make me express myself diversly. I would have come to your Lordship, but that I am hastening to my house in the country. And so I commend your Lordship to God's goodness.

[1] Addl. MSS. 5503, fo. 31 b.

7.

Another of the fruits of this year was his little book *De Sapientia Veterum;* one of the most elegant of his works, and, in his own and the next generation, one of the most popular. It appears to have grown out of a thought dropped with much hesitation in the Advancement of Learning; where, speaking of "Poesy Parabolical,"—and that one of its uses is "when the secrets and mysteries of religion, policy, or philosophy are involved in fables or parables,"—he goes on, "In Heathen poesy we see the exposition of fables doth fall out sometimes with great felicity, as in the fable that the Giants being overthrown," etc. . . . . "Nevertheless in many the like encounters I do rather think that the fable was first and the exposition devised, than that the moral was first and thereupon the fable framed. . . . . But yet that all the fables and fictions of the poets were but pleasure and not figure, I interpose no opinion. Surely of those poets which are now extant, even Homer himself, (notwithstanding he was made a kind of Scripture by the later school of the Grecians), yet I should without any difficulty pronounce that his fables had no such inwardness in his own meaning; *but what they might have upon a more original tradition, is not easy to affirm;* for he was not the inventor of many of them."[1]

From the manner in which it is expressed, I imagine the thought to have been at this time in the first stage of digestion. But following out the hint in the last sentence, he came afterwards to the conclusion that, long before the days of Homer and Hesiod, a generation of wise men had flourished on the earth who taught the mysteries of nature in parables; that after they and what they taught had alike passed away and been forgotten, the names and incidents of these parables still floated in tradition; but that they were then taken merely for tales of old times, and falling into the hands of poets and minstrels were altered, adorned, and added to at pleasure, without regard to the original meaning, till they settled into the shape in which we find them. The problem, therefore, was to get rid of the overgrowths, and to recover and interpret the original parable; and Bacon, having already made the trial upon three or four,[2] followed it up in others,—collecting the incidents from a comparison of all extant traditions, and adding what he supposed to be the interpretations,—until he had enough to make a little volume. This he now published. His motive for doing so at this time—it came out about the end of 1609—was not, I think, merely that it was a very pretty book, shewing reading and scholarship, setting forth certain

[1] Adv. of Learn., Vol. III. p. 344. [2] See Phil. Works, Vol. III. p. 180.

favourite speculations of his own in a striking and attractive shape, and likely to raise his reputation among scholars; though that may seem motive sufficient; for it had never been his practice to publish small pieces. Old as he was and much as he had written, he had appeared as an author in print only twice before, and only once willingly: the *Essays* having been sent to the press as they were, only to rescue them from pirates. But he was now busily considering how the new ideas of the Instauratio might be introduced into the world with the best chance of favourable entertainment; and it occurred to him that if presented as treasures recovered from antiquity they would be more respectfully regarded than if propounded as his own. When among other measures for preparing men's minds to receive them, he suggested to himself the "discoursing scornfully of the philosophy of the Grecians, with some better respect to the Ægyptians, Persians, Caldes, and *the utmost antiquity, and the mysteries of the poets*,"[1] he was probably thinking of these fables: and from a passage in the *Cogitata et Visa*, where he observes how easy it would be to make out that the sages who flourished before the Greeks had a deeper knowledge of nature than they, and—as new-risen men seek to ennoble themselves by adopting ancient pedigrees[2]—to father these ideas upon them,[2] we know that he had in fact considered the point with the thought of making this use of it. He concluded, indeed, that the argument was too doubtful to be fairly employed in that way; yet he had still too strong a fancy for it himself to be content that it should be thrown aside as worthless; and as the enquiry supplied him at any rate with a handsome occasion for announcing ideas of his own for which he wished to bespeak a hearing, he resolved to cast his bread upon the waters, trusting that the world would find it in due time.

The value of the book to us does not depend upon our acceptance of the theory on which it is constructed. If it did, it would hardly rise above the price of a curiosity. That a state of high intellectual cultivation may have existed on the earth, and disappeared with all its fruits and all its traditions, leaving no record of itself behind,—is not altogether inconceivable, if we suppose that the art of writing,

[1] See above, p. 64.

[2] "Atque post has philosophiarúm oras peragratas, se undique circumspicientem etiam ad antiquitatis penetralia oculos conjecisse, veluti versus tractum quendam nubilosum et obscurum. Atque scire se, si minus sincerâ fide agere vellet, non difficile esse hominibus persuadere, apud antiquos sapientes, diu ante Græcorum tempora, Scientiam de Naturâ majore virtute, sed majore etiam fortasse silentio floruisse: *atque ideo solennius fore ea quæ jam afferuntur ad illa referre:* ut novi homines solent, qui nobilitatem antiquæ alicujus prosapiæ per Genealogiarum rumores et conjecturas sibi affingunt; sed se, rerum evidentiâ fretum, omnem imposturæ conditionem recusasse," etc. Phil. Works, Vol. III. p. 604.

or of preserving writing in some durable material, was not among its inventions. If the preservation of any knowledge depended upon an unbroken succession of oral teachers, one or two unlucky generations might lose it beyond recovery. But it is harder to conceive that any such state could have existed without producing *works* of some kind, that could not have been so easily obliterated. A war might interrupt the succession of teachers, but it would take a convulsion of nature to bury all evidence of works accomplished. The solution of the problem which modern enquirers, studying it with greater advantages, have arrived at, avoids this difficulty. Admitting—and so far agreeing with Bacon—that the existence of many of these fables cannot be satisfactorily accounted for without supposing that they grew out of earlier stories which contained an allegorical meaning of some kind, they look for the meaning which they did contain in the very opposite direction. Instead of seeking in those earlier stories for shadows of profound science, they take them to have been the simplest expressions of the simplest conceptions of an age when abstract thought had not yet formed for itself a language to speak in, and all speech was metaphor,—to have represented in fact not the secrets and mysteries of nature, but her most obvious and ordinary phenomena; and had Bacon lived into the days of comparative philology and comparative mythology, I have little doubt that he would have accepted this solution as far easier and more probable than his own, and forthwith renounced all claim to have his ideas regarded as the property of a forgotten generation. To us, however, the ideas themselves are not the less valuable on that account: and I doubt whether any one of his works can be mentioned which contains within the same compass a greater variety of fine and original observation upon the various businesses and conditions of human life, more agreeably delivered, or more available for the instruction of modern men.

This is the little work of which he sent Toby Matthew a copy with the following letter; which comes from his own collection.

The work itself will be found in the first volume of the Literary and Professional Works,[1] with a translation of my own; and a preface, to which I must refer for a fuller discussion of some of the questions just touched upon.

A LETTER TO MR. MATTHEW, UPON SENDING HIS BOOK 'DE SAPIENTIA VETERUM.'[2]

Mr. Matthew,

I do heartily thank you for your letter of the 24th of

[1] P. 605.

[2] Addl. MSS. 5503, fo. 34 b.

August from Salamanca; and in recompence thereof, I send you a little work of mine that hath begun to pass the world. They tell me my latin is turned into silver, and become current. Had you been here, you should have been my inquisitor before it came forth: but I think the greatest inquisitor in Spain will allow it. But one thing you must pardon me if I make no haste to believe, that the world should be grown to such an ecstasy as to reject truth in philosophy, because the author dissenteth in religion; no more than they do by Aristotle or Averroes. My great work goeth forward; and after my manner, I alter ever when I add. So that nothing is finished till all be finished. This I have written in the midst of a term and parliament; thinking no time so precious,[1] but that I should talk of these matters with so good and dear a friend. And so with my wonted wishes I leave you to God's goodness.

From Gray's-Inn, the 17th[2] of Febr., 1610.

8.

Among Bacon's memoranda of the 26th of July 1608, one runs thus: "Q. of learned men beyond the seas to be made, and hearkening who they be that may be so inclined." "To be *made*" means of course to be persuaded to take an interest in the Great Instauration. In the course of the next year a chance presented itself, which he did not neglect, though I am not aware that anything came of it. Isaac Casaubon, the famous scholar, was then at Paris, invited by a pension from Henry IV. and hopes of a professorship. He had there become acquainted with some of Bacon's writings, probably through Sir George Cary, and perhaps at the instance of Bacon himself; and had written to Sir George to express his admiration of them. Bacon took hold of the occasion to invite a correspondence, as we learn from the following letter; which comes from the collection at Lambeth. It is only a draught, and may probably therefore be the record of an intention only, which was not fulfilled. But for our purposes the intention is enough. The date is not in this case of much consequence; except that if the letter was sent to Casaubon in 1609, we might have expected to hear of some further communication between them after he arrived in England; which he did the next year. Birch, by whom this letter was first published, observing that Casaubon had *written* to Sir George Cary, appears to have in-

[1] *Possessed.* Res. [2] 27th. Res.

ferred that they could not have been both in France or both in England; and as Sir George returned from his embassy in France in October 1609 and Casaubon arrived in England in October 1610, concluded that the letter must have been written between those dates. But as it is obvious that Casaubon might have sent a letter to Sir George when they were both in Paris or both in London, there is not really any ground for that conclusion.' All that can be said is that this is as likely a date as any other, and that the letter comes in here more conveniently than it would anywhere else. Only it must be understood that any speculation which depends upon the assumption of this date as a fact, ought to be rejected as wanting evidence. Casaubon came to England after the death of Henry IV., and was well entertained by James both with attentions and preferments till 1614, when he died; but I find no traces of any further correspondence between him and Bacon; which, if they had come into personal communication, could hardly have failed to be found in the 'Ephemerides."

To Casaubon.[1]

Cum ex literis, quas ad dominum Carey misisti, cognossem scripta mea à te probari, et mihi ipse de judicio tuo gratulatus sum, et tibi quam ea res mihi fuerit voluptati, scribendum existimavi. Atque illud etiam de me recte auguraris, me scientias ex latebris in lucem extrahere vehementer cupere. Neque enim multum interest ea per otium scribi quæ per otium legantur, sed plane vitam et res humanas et medias earum turbas per contemplationes sanas et veras instructiores esse volo. Quanta autem in hoc genere aggrediar et quam parvis præsidiis, postmodum fortasse rescisces. Etiam tu pariter gratissimum mihi facies, si quæ in animo habes atque moliris et agitas mihi nota esse velis. Nam conjunctionem animorum et studiorum plus facere ad amicitias judico, quam civiles necessitates et occasionum officia. Equidem existimo neminem unquam magis verè potuisse dicere[2] de sese, quam me ipsum, illud quod habet psalmus, *multum incola fuit anima mea.* Itaque magis videor cum antiquis versari, quam cum his, quibuscum vivo. Quidni etiam possim eum absentibus potius versari quam cum iis qui præsto sunt, et magis electione in amicitiis uti, quam de more occasionibus submitti?

[1] Lambeth MSS. Gibson papers viii. 272. Draft written apparently to dictation by an amanuensis; corrected in Bacon's own hand. No signature, date, docket, or address. Flyleaf gone. Indorsed "To Casaubon" in the hand of the person who put the papers up in the volume.

[2] *Discere* in MS.

Verum ad institutum revertar. Ego, si quâ in re amicitia mea tibi aut tuis usui aut ornamento esse possit, tibi operam meam bonam atque navam polliceor. Itaque salutem tibi dicit

Amicus tuus, &c.[1]

[1] Understanding from your letter to the Lord Cary that you approve my writings, I not only took it as a matter for congratulation with myself, but thought I ought to write and tell you how much pleasure it had given me. You are right in supposing that my great desire is to draw the sciences out of their hiding-places into the light. For indeed to write at leisure that which is to be read at leisure matters little; but to bring about the better ordering of man's life and business, with all its troubles and difficulties, by the help of sound and true contemplations, —this is the thing I am at. How great an enterprise in this kind I am attempting, and with what small helps, you will learn perhaps hereafter. In the meantime you would do me a very great pleasure if you would in like manner make known to me what you are yourself revolving and endeavouring and working at. For I hold that conjunction of minds and studies has a greater part in friendships than civil ties and offices of occasion. Surely I think no man could ever more truly say of himself with the Psalm than I can, "My soul hath been a stranger in her pilgrimage." So I seem to have my conversation among the ancients more than among these with whom I live. And why should I not likewise converse rather with the absent than the present, and make my friendships by choice and election, rather than suffer them, as the manner is, to be settled by accident? But to return to my purpose. If in any thing my friendship can be of use or grace to you or yours, assure yourself of my good and diligent service: and so biddeth you farewell

Your friend etc.

CHAPTER V.

A.D. 1610. ÆTAT. 50.

1.

THE great political problem which the times of James the First had to solve had been kept waiting hitherto by other business, but could not be kept waiting much longer. During the last two sessions the Union and the Gunpowder Plot had prevented the question how the Crown should be supplied with a revenue adequate to its wants from being pushed to a crisis; the discussion of the Union having occupied the time of the Lower House, and the horror of the conspiracy having disposed them to be liberal. But even in 1606, when their excited loyalty showed itself in so large a grant—a grant without any precedent in a time of peace—the pertinacity with which they insisted that the petition of grievances should be presented to the King before the bill of the three subsidies went up to the Lords,[1] gave sure sign of a struggle to come. The truth was that the business of government had outgrown the provision for carrying it on. The ordinary income of the Crown was no longer equal to the ordinary demands upon it. Even Elizabeth, with all her power of obtaining zealous service without paying for it in money, and with a practice of economy in all departments which every modern historian condemns (in respect to the particular department which he happens himself to favour) as parsimony,—parsimony in the reward of servants, in the provisioning of armies, in the keeping up of national defences, in the subsidising of allies,—even Elizabeth could not carry on the government in her later years without calling upon Parliament for annual contributions far beyond all former precedent, nor even then without borrowing money to the amount of a whole year's income and selling land to the value of as much more. The cause was simple enough. Large estates are costly to manage. The nation had increased greatly in wealth and population; the business and cost of government had increased along with it: but the fund

[1] See Vol. III. p. 278.

out of which the cost was to be defrayed was comparatively stationary. As the Kings of England were never merchants, the patrimony of the Crown could not be expected to grow with the growth of a nation whose commercial activity was bringing honey to the hive from every land over every sea; while prices were rising from the influx of gold into Europe; and the value of the Parliamentary subsidy, in which (as being a direct tax upon real and personal property) a proportionate increase might have been looked for, was, for some reason which I do not clearly understand, gradually *diminishing*. Whatever may have been the cause, there is no doubt about this fact: and it is important enough to be worth exhibiting in detail. The following statement, authenticated by a note in the handwriting of the Earl of Salisbury, is preserved among the State Papers.

A comparison of Subsidies and Fifteenths drawn down from the first year of Q. Eliz. to the present 10th Feb. 1609.

viz. in			decrease every subsidy.	decrease from the first.
1558	1°	1 Subsidy and 2 15ths	194326	——	——
1562	5°	. . . . .	191566	2760	2760
1565	8°	. . . . . 1 15th	155794	15772	15772
1570	13°	. . . . . 2 15ths	175690	15900	18636
1575	18°	. . . . .	169192	6494	25134
1580	23°	. . . . .	167876	1316	26450
1584	27°	. . . . .	163546	4330	30780
1587	29°	. . . . .	163130	416	31196
1589	31°	. . . . .	160545	2585	33781
1593	35°	. . . . .	152790	7755	41536
1597	39°	. . . . .	141000	11790	53226
1601	43°	. . . . .	134471	6530	59855
	3° Jac.	. . . . .	124000	10471	70326

Note that all these decrease rise from the diminution of the Subsidies of the Laity, because the clergy subsidy and the fifteenths of the Laity are certain.[1]

Thus we see that three subsidies in the beginning of James's reign did not bring so many pounds into the Exchequer as two did in the beginning of Elizabeth's, and yet three subsidies still passed for much the more liberal grant.

This state of things James inherited: and though he inherited along with it a portion of Elizabeth's last subsidies, they were not more than enough to repay the money which she had been forced to borrow. If I understand correctly the financial tables which Mr.

[1] S. P. Dom. James I., vol. lii. No. 58. This note is in Salisbury's hand.

Gardiner has collected with such diligence, the ordinary expenditure of the government during the last five years of Elizabeth must have exceeded the ordinary receipts by more than half their amount. And though the expenditure was considerably reduced by the conclusion of peace with Spain and the suppression of the rebellion in Ireland, Mr. Gardiner himself admits that for a few years an annual deficiency of not less than 30,000*l.* (about one-tenth of the whole) was inevitable. Whether he is right in supposing that an Elizabethan economy steadily pursued during those years, together with judicious measures for improving the Crown patrimony, would have brought the ordinary charges and the ordinary receipts to an equality, it is not necessary for my purposes to inquire. The contingency was not on the cards. Even if James had been ever so much disposed to take Elizabeth for his model in spending money, it may be fairly doubted whether it would have been possible for him to endure the unpopularity which it would have entailed. Elizabeth could do many things which another in her place, even if he had possessed her qualities, could not have done. The whole Protestant population of England then living had been bred in devotion to her. Her age, her renown, her demeanour, her genius, combined to give her an authority which she could use without offence even in courses of which the people are commonly very intolerant. Had James entered upon his kingdom with a resolution to imitate her,—to be as strict in accounts, as exigent of service, as sparing in rewards,—he would have incurred more dislike for his parsimony than he ever did for the opposite, nor is it by any means certain that he would have been the richer. But it is vain to ask what might have been the consequences of such a thing: the thing itself could not have been. A man cannot alter his nature, and it was not in James's nature to be an economist. He was a man who could not easily deny himself any pleasure, and unfortunately one of his chief pleasures was to give to those whom he liked whatever they wished to have. With this infirmity he had reigned for six years, when on the 19th of April 1608 his Lord Treasurer, the old Earl of Dorset, died, leaving the Exchequer in such a condition as might have been expected. The ordinary expenditure exceeded the ordinary income by 83,000*l.* The debt had risen to a million. And this at a time when the regular revenue of the Crown was expected to meet all its ordinary occasions without assistance from Parliament.

Salisbury, who was immediately made Lord Treasurer, lost no time in setting his brains to deal with the difficulty: and if diligence, subtlety, activity and finesse had been enough for the task, perhaps no man was more likely to succeed. But he had here a new case to

deal with; and it would appear from the manner in which he began that he did not at first understand it. Had it been possible to cure the complaint without calling in the House of Commons, it would perhaps have been prudent to abstain from inviting their co-operation; for it is not to be denied that a public admission of the true state of the case was not without its dangers. But if the co-operation of the House of Commons was or might become indispensable, it was of prime importance to avoid all proceedings likely to alarm them for their privileges. One of these proceedings was the laying on of *Impositions*,—the imposition of duties, by authority of the Crown alone without the sanction of Parliament, upon goods exported and imported. The question whether the King had a right to do this had been disputed in the House of Commons, and though it is true that a case involving that question had been recently argued in the Court of Exchequer, and that the Judges had decided it in the King's favour, it is also true that in the last Parliament that very decision had been complained of and controverted, and it was plain that it had by no means set the question at rest. It was one of those stretches of Prerogative of which the Commons were most jealous; and with most reason: for to concede the claim in its full extent would have been to make over the commerce of the nation to be taxed at pleasure and without check. Yet the very first thing Salisbury did after he was made Lord Treasurer was to stretch this very power further than it had ever been stretched before:—to lay on at one clap, by the sole virtue of this disputed right, duties to the amount of 60,000*l.* a year. Whether it was done in inconsiderate haste, as the readiest shift to make the ordinary receipts equal to the ordinary expenditure, and stop the accumulation of debt; or whether he had some further reach in it—as thinking perhaps to enhance the value of a prerogative which he meant to sell, or by increasing the burden to make the Commons more eager for the removal of it;—or whether it was merely to magnify the value of his own services in the King's eyes, make him feel that he could not spare so diligent and so profitable a minister, and thereby establish himself in his new seat; I cannot say. But so it was. There is a curious paper in the British Museum, drawn up by Sir Julius Cæsar, who was then Chancellor of the Exchequer. It contains a journal record of Salisbury's services during the first two months of his treasurership; and seems to have been drawn up for the express purpose of magnifying to the King the merits of his new Lord Treasurer. The particular business of the Impositions is thus recorded.

"On Saturday 11 Junii, the Lord Treasurer, attended by the Chancellor and Barons of the Exchequer, went to the Custom House, and

there in the assembly of the chief merchants of England, assembled from all the principal parts of the land, did make an excellent speech to prove that Impositions might lawfully be imposed by sovereign kings and princes on all merchandises issuing out or coming into their ports;—that no King or Prince, living or dead, doth or ever did deserve better the continuance of that liberty and privilege than our sovereign King James, who in his excellent virtues, natural, moral, and political, surmounteth all other kings living or dead;—that his present necessities, occasioned for the use of the public, especially for Ireland, contrary to his own will and the admirable sweetness of his own natural inclination, have occasioned him to use this lawful and just means of profit;—which speech he had no sooner knit up with a particular repetition of Impositions now seeming burdensome and ordered by his Majesty for the ease of his subjects to be lightened, and likewise most things of necessary important use to the poor to be excepted from any imposition, than every man, after some little contradiction, consented to this general imposition now established;—which will prove the most gainful to the King and his posterity of any one day's work done by any one Lord Treasurer since the time of King Edward III."

The whole journal of Salisbury's services during these two months is summed up in these words:—

"He hath moreover to the King's great honour lessened the Impositions upon the commodities of currants, sugars, and tobacco. And hath to the King's great profit and the benefit of his posterity, increased his revenue by new Impositions general upon other merchandises to the value of 60,000*l.* a-year. And likewise hath raised a like benefit of 10,000*l.* a-year increase upon ale-houses licensed. . . . .

"So that, besides his other continual employments both in this high place and other his important and great places, he hath in the space of two months and twenty days directed and signed 2884 letters, and gotten to the King in money 37,455*l.* and in yearly revenues 71,100*l.*; which I dare confidently affirm was never done by any Lord Treasurer of England in two years. God's name be glorified for it, and honoured be our gracious Sovereign, who made the choice of so diligent and faithful a servant, and recommended be that servant who hath a conscience to discharge his duty to so gracious a Sovereign, whose long experienced judgment can rightly deem of men's deserts, and wisely distinguish between truth and falsehood."[1]

All this was done; but all was not enough, nor nearly enough. The Crown still laboured under a debt of 400,000*l.* and a large annual deficiency. And Salisbury now saw, not only that the remedy must come from Parliament, but that since the precedents of Parliament showed no instance of a supply at all adequate to the emergency, some new occasion must be created that should lie out of the region of precedents.

[1] Lands. MSS. 168 f. 306.

The scheme which he devised with this view was a large and imposing, and (had it been wisely digested and prudently carried) might have proved a very happy one. The revenue of the Crown was in those days drawn from many sources besides its patrimonial property; chiefly from certain tenures and privileges,—such as Wardships, Knight's service, Purveyance, and others;—remnants of the feudal system, which the times were fast outgrowing:—privileges which had come to be burdensome to the people in a degree much greater, I fancy, than they were valuable to the Crown; and what was worse, (the system and occasions out of which they originally grew being forgotten) had come to be looked on and felt as grievances. Yet that these rights did belong to the Crown, and formed a regular and legitimate source of revenue, was not disputed. Here therefore were all the essential elements of a just and advantageous arrangement for both parties. A fixed revenue of equal amount derived from taxation would have been better for the King; and even a considerably larger revenue so supplied would have been much better for the people. There remained only the old difficulty incident to all the bargains that are made under the sun,—the difficulty of inducing the contracting parties to deal frankly and openly, with just and reasonable desires on both sides; instead of higgling and trying above all things to overreach one another, or (which is almost as bad) taking care above all things not to be overreached. It must be admitted however that this difficulty was in this particular case unusually great. The Commons,—jealous, ambitious, conscious of their advantage, many, and full of lawyers;—The King, —irritable, impatient, loose-tongued, conscious of his disadvantage and struggling to face it out, his heart full of anxiety about his estate, his mouth full of prerogative and divine right;—how were two such parties to come to an understanding on such a subject? Everything would of course depend upon the discreet opening and conducting of it by those ministers who stood between the two and had influence with both. The history of the negotiation is the history of the next session of Parliament.

2.

In making a bargain, to be known to be in distress for money is a great disadvantage, and therefore it seems strange that so old a politician as Salisbury, in negotiating a money-bargain with the Commons on behalf of the King, should have begun with a public and official proclamation of the King's pecuniary embarrassments, and his utter inability to extricate himself without a very liberal supply

from the benevolence of his people. There could not be any necessity for proceeding so. Whatever might be the causes in which the proposition originated, the proposed arrangement both professed to be and was for the good of the state. It was to establish the necessary powers and revenues of the Crown upon a foundation less inconvenient for the people. In the days of the strong hand the Crown had been used to take the lion's share of everything. As arbitrary power was gradually brought under regulation and restricted by limitations and definitions, the customs which had thus grown up were left within the line and allowed as lawful. The share which the lion had claimed was secured to him, not on the original ground that he was strong enough to take what he pleased, but as being the share which properly belonged to the lion and was sanctioned by law. Hence it came that in inheriting the Crown King James had inherited a great many rights, royalties, immunities, and unfair advantages, which belonged to it and formed part of its regular income. These rights, royalties, etc., though they affected only a few persons, were troublesome and vexatious to those on whom they fell, and the money which they yielded could have been supplied much more conveniently to the people at large by a general tax, which lying equally on all would not have lain heavily on any. There could have been no difficulty in submitting to the House of Commons, as a measure for the good of the commonwealth without any reference to the necessities of the Crown, the expediency of relieving the people from these liabilities on condition of providing otherwise for the revenue they brought. The terms of the bargain would still have been open; and the less the Commons knew of the straits in which the King was placed, the better would have been the chance of settling them favourably.

Salisbury however, for some reason or other, took the opposite course: and it is plain that he took it advisedly; for he had everything ready, he made the first move, and he began at once.

The Houses met on the 9th of February 1609–10; and the Commons had scarcely found time to ventilate the uppermost grievances, when they were invited by the Lords to a conference, "for consideration to be had for some necessary supplies to be yielded unto his Majesty."

The conference took place on Thursday the 15th, and the proceedings were reported to the House on the Saturday following. It seems they consisted entirely of a speech from Salisbury, which divided itself into three parts. The first, which related merely to the coming creation of the Prince of Wales, and seems to have contained nothing but stories out of the Chronicles, was reported by the

Attorney-General. The second, which was the main business, and a very delicate one to deal with—being nothing less than an exhibition of the balance-sheet, for the purpose of showing that the King could not support his position without help—was undertaken by Bacon.[1] We have no report of what he said sufficiently full to show how he tried to make the best of it, but the substance of the statement is preserved in more than one record; and the agreement of these with the figures and disconnected fragments set down in the Journals entitles us to accept it as substantially correct.

REPORT OF PART OF THE SPEECH MADE BY THE EARL OF SALISBURY AT THE CONFERENCE OF THE TWO HOUSES, 18TH FEBRUARY 1609–10.

Now as it is an exceeding great comfort for us to see a King and a Prince live together, so it must needs be a great peril and danger if either of them should want means sufficient for their maintenance. For the branch cannot prosper and flourish except the root be fed.

The better to persuade us therefore to supply these wants, he set before us four things, viz:

1. A representation of the dangers and inconveniences if the King's wants should not be supplied.

2. An exact and particular declaration of the King's wants.

3. A preoccupation of certain silent objections.

4. Matters of inforcement to excite us to yield unto the King's desire.

I. In the number of the first he named breach of treaties and alliance with foreign Princes, which is expected, and may happen we know not how soon, either by means of want of justice to be done to His Majesty's subjects, or by ambition of forcigners. And therefore it is necessary that the King have means for four causes:—

1. To maintain his state.

2. To resist his enemies.

3. To help his friends.

4. To make diversions of war, which is the best policy: for if the late Queen had not given aid to the Low Countries and the French King, what a neighbour might we have had ere this?

[1] See Journals, p. 395, vol. i.

II. Secondly, the King's wants and estate he described in three several times :—

1. At the time when he came to the Crown.

2. From that time till Michaelmas was twelvemonth, when his estate was at the lowest ebb.

3. A progression from that time till now.[1]

When Q. Elizabeth entered into the war of Ireland, she had in her coffers 700,000*l.*

At the King's coming in, the coffers were empty and the Crown deeply engaged.

From the overthrow at the Blackwater, where Bagnall the Marshall lost his life, to the Queen's death, it cost the Crown 1,600,000*l.*

The King's time hath two balances, one of account annual and ordinary, and the other in gross.

The ordinary expense more than the receipt is yearly 80,000*l.* besides extraordinary, which to him that liveth not like a wretch doth amount to ¼ of the ordinary.

The gross balance coming to be viewed, it is to be considered that he could not dissolve the army in Ireland presently upon his coming to the Crown, as well for that it had been no charitable consideration to put so many men out of means on a sudden, as also for that it was not safe to sheathe his sword too suddenly and commit the peace of that kingdom to so treacherous a people.

So that it is not strange that the gross balance of the charge[2] of Ireland since the King's time doth amount to 600,000*l.*

The Balance of Receipts standeth thus.

The King found 300,000*l.* of Subsidies granted to the Queen; had 450,000*l.* granted by Parliament.

By Aid Money,[3] 22,000*l.* Whereof 4000*l.* from the nobility, 1000*l.* out of London; and the rest elsewhere in the country.

Privy seals, being 100,000*l.* are all paid but 5000*l.*

So the balance of receipt since his coming to the Crown riseth to 800,000*l.*

But this money was received with one hand and paid with the other.

[1] So far I follow the MS. discovered by Mr. Gardiner and edited by him for the Camden Society. The rest of this division I take from Cotton MSS. Tit. C. X. fo. 125: which reads to me like a better report, though rather shorter.

[2] *Cleargee* in MS.

[3] This was for the creation of the Prince of Wales.

For with the subsidies left by the Queen the King redeemed the mortgaged lands, took away the copper money of Ireland, discharged debt in offices, all which mounted to 300,000*l.*, to which the 600,000*l.* of Ireland being added, makes 900,000*l.*, which is more than the receipt by 100,000*l.*

The Low Countries have cost the King 200,000*l.*

Queen Elizabeth left not so mean an estate but deserved a funeral.

The King's coming out of Scotland was answerable to himself.

The Queen, that noble lady, with her precious jewels her children, was not to come like an Earl's wife. The solemnity of Coronation, the triumphs, the royal entry into London, the King of Denmark's entertainment, Embassadors more than ever to any other Prince; which chain of cheerful charges amounted to 500,000*l.*

In the third year of the King that gross debt was 700,000*l.* and by Michaelmas 1608 it was raised to 1400,000*l.*

From which sum there is defalked,—

By subsidy since his coming to the Crown . . .	450,000*l*
By sales of land	400,000*l*
By copyholds, woods, and defective titles	100,000*l*
By debts called in since the 30th year of Queen Elizabeth	200,000*l*
Summa totalis .	1100,000*l*[1] .

So that 300,000*l.*, being the rest of the debt of 1400,000*l.*, is the King's present engagement.

This concludes the "exact and particular declaration of the King's wants," which formed the second division of this part of Salisbury's speech. For the two remaining divisions I return to the MS. printed by the Camden Society, which I shall hereafter call for shortness "Mr. Gardiner's MS.:" he being the person who discovered its value. The Cotton MS. seems to have been made by some one who wanted the exact financial statement, but did not much care about objections or inforcements. Consequently the remaining notes are thrown loosely together and left unintelligible and incomplete. Mr. Gardiner's MS., after stating the balance of the debt, proceeds thus:—

[1] So in MS.

III. Objections.

1. The precedent is rare. To which he answered, that in 600 years space the kings of the realm never asked help in Parliament and were denied but thrice.

In A° 21 H. 8, the Parliament released to the King all his debts, which were of very great value.

Q. Elizabeth in 44 years had 20 subsidies of the laity and 18 of the clergy. The whole in her time came to 2,800,000*l.* which is almost three millions.

2. Objectio: The King is not in wars nor in action.

Solutio:—

The present charge of Ireland is 100,000*l.*

The charge of the Navy is 40,000*l.*

Besides charge of fortresses and castles.

3. Objectio: The King gives much.

Responsio:—

He gives *de proprio,* and bounty is an essential virtue of a King.

Q. Mary, a queen full of moral virtues and of great devotion in her kind, departed from the Crown by way of restitution 900,000*l.* per annum of old rent.

She also gave in donatives 750,000*l.* per annum of old rent.

She returned to her clergy in tenths and first-fruits 2,800*l.*

Queen Elizabeth held the middle way between her father and her grandfather.[1]

IV. Matters of Inforcements.

1. Doubts and expectation of breach of Treaties.

2. The competition for the Duchy of Cleves, wherein the Emperor, taking upon him to be judge, hath, without hearing the cause, sent the Bishop to take possession for the house of Austria. And on the other side, the French King and our King join to take part with the other, not because of his religion only, for that his right and religion concur together.

So noble an enterprise as this is not to be deserted, sith, besides charity, we owe unto it a tribute of policy.[2]

If Bacon had set down his notes on "Policy" (see above, p. 73)

[1] 'Sister' in MS., but clearly a mistake. Another report of this speech (Harl. MSS. 777) gives it thus: "She was the grandchild of a frugal grandfather and of a loose-handed father, which made her study more a mediocrity therein than some others did before her."

[2] Parl. Debates, 1610, p. 7. Addl. MSS. 4210.

in December 1609, instead of July 1608, he would probably have pointed to this "succession controversy of the Cleve Duchies,"—now "coming to be a very high matter, mixing itself up with the grand Protestant-Papal controversy, the general armed-lawsuit of mankind in that generation," in the decision of which "Kaiser, Spaniard, Dutch, English, French Henri IV., and all mortals were getting concerned,"[1]—for the likeliest solution of the difficulty he was considering—the offer of an enterprise in which the Crown might engage with assurance of carrying the sympathy and ambition of the people along with it: only I think he would have put it in the front rather than in the rear; and instead of using it to enforce a demand for supplies, would have treated the proposed supply as a mere incident of the enterprise, and necessary condition of success.

Salisbury preferred to put the demand for money upon the simple ground that the King had need of it. For when he came to speak of "retribution," he appears to have been studiously vague. The notes that remain of the report made by Sir Edwin Sandys of this part of his speech leave the nature of his proposal altogether indefinite and obscure: and so it seems to have been found by those who heard it. "The retribution to proceed from his Majesty" was "a general redress of all just grievances." But what kind of things were admitted to be grievances, and what kind of redress was to be looked for, remained doubtful. Insomuch that when the whole subject of "contribution and retribution" was referred to the General Committee of Grievances (a reference inevitable, as the thing was carried, though of no good omen) they found they could make no advance without first knowing what they were at liberty to treat for. Tenures and Wardships had indeed been mentioned in Salisbury's speech; but it was in a manner so ambiguous that "that motion was conceived by some to be but as a lure to the subject, to draw him on to a greater contribution:"[2] and therefore it was resolved (Feb. 21) in the first place to ascertain from the Lords in another conference "what those things were which his Majesty intended to give to his subjects by way of retribution"; and if Wardships and Tenures were not named, then to inquire particularly whether or no they were to be considered as among them.

The first question being proposed first, Salisbury began by expressing surprise at the proceeding. The King had summoned the Parliament avowedly because he was in want; and they replied by asking what he had to give! He was ready however to explain more particularly what was wanted; and after recounting again the

[1] Carlyle's Hist. of Frederic the Great, vol. i. p. 308.
[2] Parl. Debates, p. 13.

various occasions which had exhausted the Exchequer, he told them plainly that "the demand of the King was double: *Supply*, to discharge his debts; and *Support*, to maintain his estate:" and namely, for the first, 600,000*l*; for the second, 200,000*l*. per annum. And here, it seems,—without offering any answer to the question which they had come to ask,—he stopped and awaited their reply.

Their reply was in effect a repetition of the question. Until "they knew the King's pleasure, what he were willing to depart withal to the subject," they could not "determine of any yearly contribution:" and for the demand now made, it was "in nature transcendent, and in precedent very rare," and they could say nothing without further instruction from the House.

After this we are told that there was a pause of silence: whether because Salisbury still hoped to commit them to the price before he showed the goods, or because he had not quite made up his mind how far to go, may remain a question. But after waiting a little and finding that no further answer was forthcoming, they proceeded to the second part of their commission: "Would it please his Majesty that they might treat concerning the discharge of Tenures?"

To this Salisbury replied, that he must consult the rest of the Lords before he could give them an answer on that point: but meanwhile (having now, I suppose, had time enough to consider his course) he proceeded to give them a tolerably full reply to their first question.

He told them that for matters of sovereignty inherent in him,—such as the calling of Parliament, the stamping of coin, the proclaiming of war,—with these the King could not part: that for matters of justice, and protection of his subjects, and redress of all just grievances,—for these he could not bargain: he had already taken an oath to give them freely: but that there remained some other points of prerogative which, being burthensome to the people and yet belonging of right to the Crown, "he might haply be persuaded upon good consideration to yield unto his subjects:" and of these he gave the following examples:

1. To be bound by the statute of limitation of 32 H. 8 as subjects are, and to give away that part of his prerogative, *Nullum tempus occurrit Regi*. What a jewel were this, said he, if the King would part with it?

2. Right of purveyance, which were a great ease and contentment to the subject, if it were extinguished.

3. The changing of a maxim of the law *Intentio Regis est regula legis*. And that all the King's grants should be taken in a favourable construction to the subject. As if the King grant the manor of Dale, and he have 2 manors there, this now is a void grant &c.

4. Informers to be taken away (which are all beggars and knaves) and to proceed by way of indictment.

5. Remission of old debts from 1 H. 7 until 30 Eliz., and since then also upon good consideration.

6. Forfeitures not to be taken by the King for nonpayment of rents reserved.

7. No injunction for possession to be granted upon an information in the Exchequer, and the general issue pleaded.

8. The friends of every ward to have the wardship at certain reasonable rates. And the Committee to receive no more than he pays.

9. Licence of alienation to be granted at certain reasonable rates, viz 3 years rent after the old rent, for 20 pence in times past was as much as 5 shillings is now.

10. Respect of homage to be taken in the country before commissioners, without such charge and trouble as now is.[1]

All these he told them that they were at liberty to deal with by way of bargain: for the main matter of Tenures and Wardships they would send an answer as soon as they had learned the King's pleasure.

3.

Such was the result of the conference: and it was a step gained: for they could now begin to calculate the value of the ten points which were offered. But though it took place on the 24th of February, it was not reported to the House till the 27th. This was owing to a lively interlude with which they were occupied in the interval; and which, though unimportant (as it turned out) in its bearing upon the present question, is too important in its bearing upon other questions which we shall have to deal with hereafter, to be passed by without notice.

The Committee of Grievances, which in the absence of other matters for negotiation was very busy all this time in inviting and investigating matters of complaint from all quarters, had received information that a law dictionary, published two years before by the Regius Professor of Civil Law in the university of Cambridge, contained some opinions derogatory to Parliament and dangerous to liberty. Finding the information to be correct, they brought the matter before the House. Whereupon all other business was suspended; and if they had met with any opposition in their course, the further consideration of Supply and Support might have been postponed indefinitely. Fortunately however for the progress of business, (and perhaps for himself too), Dr. Cowell, like the Bishop

[1] Addl. MSS. 4210, f. 14.

of Bristol on a former very similar occasion,[1] had no friends. The Lords were ready to join in censure: the King to issue a Proclamation, prohibiting "the buying, uttering, or reading" of his book; commanding all persons who possessed copies to take them presently to the Lord Mayor, the Sheriff of the County, the Chancellor or Vice Chancellor of the University (which ever was nearest), "that further order might be given for the utter suppression thereof:" and "because there should be better oversight of books of all sorts before they come to the press," announcing a resolution to "make choice of Commissioners that shall look more narrowly into the nature of all those things that shall be put to the press either concerning our authority royal, or concerning our government, or the laws of our kingdom; from whom a more strict account shall be yielded unto us than hath been used heretofore."[2] Which proclamation, being read in the House by Mr. Speaker on the 27th of March, gave such satisfaction to the guardians of liberty, that they immediately passed the following resolutions:—

"The Committee for Privileges to prepare an order touching this Proclamation:—For ever to remain here.

"Mr. Chancellor to go and give thanks presently to his Majesty."[3]

4.

These resolutions, which should not be forgotten when the Proclamation is remembered, were passed on the 27th of March; a full month after the first discovery of the offending sentences and the shock of alarm which it produced. It must not however be supposed that nothing else was done during that month. The unanimity of Commons, Lords, and King in the censure of Dr. Cowell was in fact so perfect from the first, that as early as the afternoon of the 27th of February the Lower House was at leisure to hear the report of Salisbury's answer to their last enquiries, and to consider what they should do. The report being delivered, a long debate followed, in the course of which Bacon made a speech: his aim being (for the notes are too fragmentary to convey more than the general purport) to recommend some course which, without committing them prematurely in the matters of contract, would leave no doubt of their intention to be liberal in subsidies, after the ancient pattern; and to

[1] See Vol. III. p. 208. [2] Book of Proclamations, p. 227.

[3] Journals, p. 415. On the 30th of March Sir Geo. Moore reported the "registring of the Proclamation for D. Cowell's Book.—A special order offered and entered." Ib. p. 416.

remind them of the interest they all had in the reputation of harmony between King and people, and of the dangers which "noise of want" might entail. And the conclusion of the debate was in accordance with this view: for the final resolution was simply to inform the Lords that for *supply* they knew of no way but subsidy, which they would take into consideration in due time and do therein that which should become loving and dutiful subjects; and for *support* they must wait for their Lordships' answer to their enquiry whether Tenures were among the things in treaty.[1]

The answer when it came (it was given on the 2nd of March and reported by Bacon to the House on the 5th,) was indecisive, and was met by a message desiring a further conference on the matter of Tenures: the object being "to urge reasons that might remove obstructions,"[2] and the task being assigned to Bacon, who has left his own report of what he said. The conference took place on Thursday the 8th of March 1609–10.[3]

A Speech of the King's Solicitor, used unto the Lords at a Conference by commission from the Commons; moving and persuading the Lords to join with the Commons in petition to the King to obtain liberty to treat of a composition with his Majesty for Wards and Tenures; in the Parliament 7 Jacobi.[4]

The knights, citizens, and burgesses of the House of Commons have commanded me to deliver to your Lordships the causes of the conference by them prayed and by your Lordships assented, for the second business of this day. They have had report made unto them faithfully of his Majesty's answer declared by my Lord Treasurer, touching their humble desire to

[1] There is a considerable difference here between the Journals of the two Houses. The Commons' Journal gives, as the final form of the message to be delivered on the 2nd of March (that part of it which relates to *support*) "And for the matter of support, because it dependeth upon your Lps' answer, we attend and desire the same at your Lordships' best opportunity." The Lords' Journal (March 3) represents the Lord Chancellor as reporting the Committees of the Lower House to have said at the conference the day before, "For the other point of support, they hold the same to be a matter most considerable, *and proper to be framed by the Lords:* whereof they expect to understand from their Lordships accordingly, when their Lordships shall find it convenient." Commons' Journal, p. 403; Lords' Journal, p. 560. I suppose the words of the report really were, "proper to be framed *in concert with* the Lords"—or to that effect—(which the matter of the *Subsidy* was not).

[2] Note of Bacon's Speech, C. J. 406.

[3] Lords' Journal, p. 563–4.

[4] Harl. MSS. 6797, fo. 136: copy corrected in Bacon's hand.

obtain liberty from his Majesty to treat of compounding for Tenures. And first, they think themselves much bound unto his Majesty, that in *re novâ*, in which case princes use to be apprehensive, he hath made a gracious construction of their proposition. And so much they know of that that belongs to the greatness of his Majesty and the greatness of the cause, as themselves acknowledge they ought not to have expected a present resolution; though the wise man say, *Hope deferred is the fainting of the soul.* But they know their duty to be to attend his Majesty's times at his good pleasure. And this they do with the more comfort, because in that his Majesty's answer (matching the times and weighing the passages thereof) they conceive in their opinion rather hope than discouragement.

But the principal causes of the conference now prayed (besides these significations of duty not to be omitted) are two propositions. The one matter of excuse of themselves. The other matter of petition. The former of which grows thus. Your Lordship, my Lord Treasurer, in your last declaration of his Majesty's answer, (which according to the attribute then given unto it by a great counsellor had *imaginem Cæsaris* fair and lively graven) made this true and effectual distribution: That there depended upon Tenures, considerations of Honour, of Conscience, and of Utility.

Of these three, Utility, as his Majesty set it by for the present out of the greatness of his mind, so we set it by out of the justness of our desires: for we never meant but a goodly and worthy augmentation of the profit now received, and not a diminution. But (to speak truly) that consideration falleth naturally to be examined when liberty of treaty is granted: but the former two indeed may exclude treaty, and cut it off before it be admitted.

Nevertheless, in this that we shall say concerning those two, we desire to be conceived rightly: we mean not to dispute with his Majesty what belongeth to sovereign honour or his princely conscience; because we know we are not capable to discern of them, otherwise than as men use sometimes to see the image of the sun in a pail of water. But this we say for ourselves, God forbid that we, knowingly, should have propounded anything that might in our sense and persuasion touch either of both; and therefore herein we desire to be heard, not to inform or persuade his Majesty, but to free and excuse ourselves.

And first in general we acknowledge that this tree of Tenures was planted into the prerogative by the antient common law of this land; that it hath been feneed in and preserved by many statutes; and that it yieldeth at this day to the King the fruit of a great revenue. But yet notwithstanding, if upon the stem of this tree may be raised a pillar of support to the Crown permanent and durable as the marble, by investing the Crown with a more ample, more certain, and more loving dowry, than this of Tenures; we hope we propound no matter of disservice.

But to speak distinctly of both, and first of Honour: wherein I pray your Lordships, give me leave, in a subject that may seem *supra nos*, to handle it rather as we are capable, than as the matter perhaps may require. Your Lordships well know the various mixture and composition of our house. We have in our house learned Civilians that profess a law that we reverence and sometimes consult with: they can tell us, that all the laws *de feodis* are but additionals to the antient civil law, and that the Roman Emperors in the full height of their monarchy never knew them; so that they are not imperial. We have grave professors of the Common Law, who will define unto us that those are parts of sovereignty, and of the regal prerogative, which cannot be communicated with subjects: but for Tenures in substance, there is none of your Lordships but have them, and few of us but have them. The King indeed hath a priority or first service of his Tenures, and some more amplitude of profit in that we call Tenure in Chief: but the subject is capable of Tennres; which shews that they are not Regal, nor any point of Sovereignty. We have gentlemen of honourable service in the wars both by sea and land, who can inform us that when it is in question who shall set his foot foremost towards the enemy, it is never asked whether he hold in knight-service or in socage. So have we many deputy lieutenants to your Lordships, and many commissioners that have been for musters and levies, that can tell us that the service and defence of the realm hath in these days little dependancy upon Tenures. So then we perceive that it is no bond or ligament of government, no spur of honour, no bridle of obedience. Time was when it had other use, and the name of knight's service imports it: but *vocabula manent, res fugiunt*. But all this which we have spoken we confess to be but in a vulgar capacity; which nevertheless may

serve for our excuse, though we submit the thing itself wholly to his Majesty's judgment.

For matter of Conscience, far be it from us to cast in anything willingly, that may trouble that clear fountain of his Majesty's Conscience. We do confess it is a noble protection, that these young birds of the nobility and good families should be gathered and clocked under the wings of the Crown. But yet *Naturæ vis maxima:* and *Suus cuique discretus sanguis.* Your Lordships will favour me to observe my former method. The common law itself, which is the best bounds of our wisdom, doth even *in hoc individuo* prefer the prerogative of the father before the prerogative of the king; for if lands descend, held in chief from an ancestor on the part of a mother, to a man's eldest son, the father being alive, the father shall have the custody of the body, and not the king. It is true that this is only for the father, and not any other parent or ancestor: but then if you look to the high law of tutelage and protection, and of obedience and duty, which is the relative thereunto; it is not said, *Honour thy father* alone, but *Honour thy father and thy mother,* etc. Again, the Civilians can tell us that there was a special use of the pretorian power for pupils, and yet no Tenures. The citizens of London can tell us, there be courts of Orphans, and yet no Tenures. But all this while we pray your Lordships to conceive that we think ourselves not competent to discern of the honour of his Majesty's crown, or the shrine of his conscience; but leave it wholly unto him, and alledge these things but in our own excuse.

For matter of Petition, we do continue our most humble suit, by your Lordships' loving conjunction, that his Majesty will be pleased to open unto us this entrance of his bounty and grace, as to give us liberty to treat.[1] And lastly, we know his Majesty's times are not subordinate at all but to the globe above. About this time the sun hath got even with the night, and will rise apace; and we know Salomon's temple (whereof your Lordship, my lord Treasurer, spake) was not built in a day: and if we shall be so happy as to take the axe to hew and the hammer to frame in this case, we know[2] it cannot be without time; and

[1] Originally "that as his M. opened the lap of his bounty and grace, in giving us liberty to treat of many things some never treated of before for our good comfort, so he would add this one, which with us was *primum in intentione* in matter of Retribution and Support."

[2] Originally "that although it should be without noise, it cannot," etc.

therefore, as far as we may with duty, and without importunity, we most humbly desire an acceleration of his Majesty's answer, according to his good times and royal pleasure.

This appeal (in which the Lords joined) procured a very gracious answer; which was delivered by the Earl of Northampton on the 12th of March, and reported to the House on the 14th; and was understood as giving them "liberty to treat concerning the discharge of Tenures and all dependencies thereof."[1] To which work they accordingly addressed themselves at once; and with so good a will that by the 26th of March they were ready with their proposition: which was shortly this: that Knights' service generally should be turned into free and common socage; in return for which "they offer to the King an hundred thousand pounds yearly; wherein they do include all the *esse* and the *posse* which the King ever had of the matter afore desired to be compounded for."[2]

5.

If the King had not been known to be in such urgent need of money, there might have been good policy in making difficulties and proceeding slowly. The Commons being really desirous to conclude an arrangement such as seemed to be proposed, an affectation of indifference on the other side might in that case have induced them to make haste lest they should lose their chance. But the difficulties of the King having been not only proclaimed but demonstrated by figures—the intolerable and inextricable embarrassments of the Crown having been laid as the ground of the whole proceeding—while the people could hold on well enough as they were—there could be no doubt that delay was more inconvenient to him than to them. It is true that historians speak of people "groaning" under exactions, as if all the population were miserable when a few are unjustly taxed; and I suppose there never was a time in any country when many respectable witnesses were not ready to show that all things were going to ruin. But that in the year 1610 the people of England were generally either in distress or in fear of distress, is certainly not true. Purveyors and informers and farmers of Crown revenues were harassing many particular persons and causing a great deal of general annoyance and irritation; but the burdens from which the people were crying to be relieved were by no means so intolerable as to drive them to purchase relief at an ex-

[1] Parl. Debates, p. 27.
[2] Salisbury's Report to the Lords, 29 March. L. J. p. 573.

travagant price. The whole nation was growing richer: the Lower House was becoming every year more powerful, and was sure to win if it had patience to wait. Not so the King. To him delay was dangerous in more ways than one. Salisbury, when he first called upon the Commons for so large a grant of money, had promised on the King's part, by way of retribution, the redress of all just grievances. It followed of course that they immediately set about *collecting* their grievances: and every day's delay not only added to the list and inflamed discontents, but brought them nearer to a question which lay inevitably in the way and threatened an irreconcilable quarrel. That a Committee of Grievances could get through such an inquiry in such circumstances without falling upon the question of *Impositions*, was not to be hoped. Salisbury's vaunted day's work had made that impossible: for until it were determined whether so large and indefinite a power as that of setting duties upon imports and exports at his own will belonged to the King or not, it was impossible to estimate the value of any grant they might agree upon. And yet to this inquiry, so manifestly unavoidable, no provision whatever seems to have been made for securing a peaceable issue. How Salisbury expected to give it the slip, it is difficult to guess. But it is clear that the game did not go as he had planned it, and he had to shift his ground more than once.

My own conjecture is that he had counted on carrying the vote of supply before the discussion of grievances could be brought to a crisis, and thereby getting money enough to go on with for a while; so that a Parliamentary difficulty might, if necessary, be got rid of by a dissolution. He was constitutionally sanguine and bold; and having seen on more occasions than one that the Commons were apt to be very forward and liberal in voting supplies when any accident tending to bring them into passionate sympathy with the Government had warmed their loyalty, he may perhaps have hoped that in their first glow of gratitude for the concessions which the King promised they would be eager to express it by a liberal contribution: which being once secured, the Crown would have been relieved from its immediate difficulty and able to conclude the rest of the negotiation with advantage, or to throw it overboard without fear of the immediate consequences. To suppose, indeed, that at the commencement of a negotiation which was avowedly in the nature of a bargain they would deliberately relieve the King from the very difficulty which was avowedly his motive for proposing it, was to give them credit either for greater dulness or for more reckless generosity than could well be expected from a body of that character. But cunning is apt to overreach itself, and Salisbury's genius was not

long-sighted. At any rate we shall find that they understood their advantage and did not mean to throw it away.

6.

They had submitted their offer to the Lords on the 26th of March, a few days before the Easter recess, and were already busy again with their collection of grievances, when on the 19th of April they were invited to a conference to hear the answer. The Lords had considered the proposition, and had communicated it to the King; whose decision they reported in these words:

"He would upon no terms depart with any part of his sovereign Prerogative, whereof the tenure *in capite* of his person, which is all one as of his Crown, is no small branch: But, touching the dependents upon such Tenures, *videlicet* Wardships, Marriage, Primier Seizin, Relief, Respect of Homage, and the like, which be the only burthens of these Tenures (the honour and Tenures reserved) His Majesty is pleased when he shall have understood what recompense will be therefor offered unto him, with convenient speed, to give further answer for contracting for the same."[1]

To this the Commons assented at once, without any difficulty. They were content that the King should retain the honour: the recompense they were prepared to offer for relief from the burdens incident to the Tenures was the same which they had already offered for relief from the Tenures themselves,—100,000*l.* per annum. What did he say to this offer?

The question was asked at a conference on the 26th of April, and answered by Salisbury in a long speech, of which (though it was felt at the time to be so important that a sub-committee was specially appointed to "consider of the report and assign a reporter"[2]) the notes in the Commons' Journals are not complete enough to be intelligible, while (singularly enough) the Journals of the Lords contain no record of it at all. It so happens however, that an unusually full report of the speech of Sir Edwin Sandys (who was chosen by the sub-committee for their spokesman) is preserved among the Harleian MSS.:[3] and from this we learn what the next move in the game was—a move quite unlooked for at the time, and very difficult to explain even now.

It will be remembered that when the Commons were asked for their answer to the King's demand of 200,000*l.* annual support, they

[1] Lords' Journals, p. 580.

[2] "Moved, that where the Lords at the Conference *answered something not expected by the Commons*, these might consider of the report," etc. C. J. April 27.

[3] Harl. MSS. 777. Printed by the Camden Society in Appendix to 'Parl. Debates in 1610.'

replied that they could give no answer until they knew "what those things were which His Majesty intended to give to his subjects by way of retribution," and in particular whether Wardship was among them: implying of course that when they offered the money they offered it in consideration of the remission of those burdens, and particularly of Wardships. The same understanding was implied in Salisbury's first answer (21 February) when he enumerated ten points of prerogative which "his Majesty might haply be persuaded upon good consideration to yield unto his subjects,"—that is, for which they might deal by way of bargain,—but distinctly reserved the question whether Wardships were to be included. It was implied again in the rejoinder to that reply (27 February), when the Commons intimated that they could say nothing as to the matter of "support" until that question were answered. It was implied throughout Bacon's speech to the Lords (8 March) moving them to join in petition for liberty to treat of a composition with the King for Wards and Tenures, with a view to "invest the Crown with a more ample, more certain, and more loving dowry *than* this of Tenures;" which could only mean to provide such a dowry in *exchange* for the revenue they now yielded. It was implied in the answer to that petition delivered by the Earl of Northampton on the 12th of March, which was accepted and immediately acted on as granting them the liberty they asked. It was implied in the terms of their first offer (26 March) and in the first answer to that offer (20 April), when the King, in refusing to part with the Tenures, signified his readiness to contract for the discharge of the burdens incident to them (Wardship being specially named as one) when he should have understood what *recompense* would be offered. But now on the 26th of April it appeared that there had been some misapprehension. For after reminding them that they had "offered for the tenures and wardships, with all other their incidents, 100,000*l.* by the year, *not reserving that benefit which the Crown now maketh by them*," Salisbury proceeded to "crave pardon that he was somewhat too curious not to mistake them: for he feared lest some want in himself in conveying those things to them which the King propounded had made them more obscure than they would have been if they had been rightly and exactly delivered." He feared (it seems) that when he told them that the King was ready to part with those ten points of prerogative by way of "retribution" for the 200,000*l.* per annum which he demanded, and when they were afterwards told that they might include Wardships with them, they had supposed him to mean that the King was ready to part with them *in exchange* for 200,000*l.* per annum;—that 200,000*l.* per annum was to be the

price of them. But it was not so. The sum originally demanded was not meant to form any part of the price of these prerogatives: it was to be merely a negative condition—a *sine quâ non*—of negotiation; the price of the concession, not of the prerogative itself, but of the liberty to offer money for it. Let them vote 600,000*l.* supply and assure to the King 200,000*l.* annual support, and the King would then be willing to part with Wardships and the like, *upon payment of a further sum equal to what he would lose by giving them up.*

Whether the King had changed his mind, or whether Salisbury had persuaded him to keep it to himself till now, but could persuade him no longer,—or whether he had not been correctly informed of what had passed before[1]—or however it came about—I cannot understand the words in any other sense than this. "When demand of 200,000*l.* per annum and 600,000*l.* was made, there was no thought (saith the King) that he should part with the Wards. Nay (saith the King) and so say we, there was no thought of divers charges which since seemed necessary. . . . And if we thought then without Tenures that demand to be just, shall we now, casting in the Wards, think it enough? . . . . He saith not 100,000*l.* is too much or too little for the Wards; but *the Wards is too much for anything that shall come short of the King's first demand.* . . . The conclusion therefore was that unless we offered that which might give the King a complete satisfaction, not *reddendo singula singulis*, but *sub tota materia*, 200,000*l.* a year *above whatsoever we defalked from him by our contract*, the Wards will not be had. And if that may be made up, then take (quoth his Lordship) Wards, Purveyance, and those other incidents, with what else the Parliament shall think fit."[2] Take them (that is to say); but take them at their estimated value.

If this offer was made at Salisbury's instigation, or with his approval, it is hard to believe that it was made with any other intention than to provoke a refusal and bring the negotiation to an end. During the last seven years of Elizabeth's reign, the amount of supply granted by Parliament had risen to nearly 140,000*l.* in the year. But that was in a time of war with Spain and rebellion in Ireland. It was granted by two several Parliaments, with special

[1] "But the King *commence se renger à la volunté des Estats;* I mean of the Lower House still, for the Lords, or some of the chiefest of his Council, have *bon gré mal gré luy* carried him in a cloud, that he could not distinguish between judgment and affections, being clear now (for so the populace can say) that there was never a house so honest to this state as the Commons are." Mr. Calvert to Mr. Trumbull 10 June 1610. Winw. Mem. III. 182.

[2] Parl. Debates, 1610, p. 150.

reference to the occasion, and for three or four years only, each time. And far from being the provision then required by the Crown from this source in ordinary times, it was nearly four times as much as the average of the first twenty-seven years of that reign, and nearly twice as much as the average of the next ten. The proposal now made was to secure to the Crown, in a time of peace both with subjects and neighbours,—to secure to it, not for three or four years, but for ever,—without reference to circumstances, and without intervention of Parliament—an annual supply greater by at least a fourth than the greatest that any Parliament had ever granted or been asked to grant. Was it conceivable that the House would listen to such a proposal for a moment after they had been fairly told what it was? To ask the House of Commons first to free the Crown from debt and then to settle upon it such an income—what was it but to ask them to make the King independent of Parliament, to deprive themselves of all legal power in the state, to turn petitions of right and complaints of grievance into empty forms, dangerous to the movers, but powerless for their objects? And this at a time when they were more than usually alive to the value of the privilege they had established of dealing with money bills by themselves, and keeping questions of supply entirely in their own hands. Give the King money enough, and what need would he have to call any more Parliaments? or what should hinder him from calling them only to do *his* work and dissolving them the moment they began to do any work for themselves? And what would concessions, promises, or even laws, be good for, from that moment? The fear of Parliaments being taken away, even the best devised laws for securing the liberties of the people could no longer have been trusted to do their work. The lawyers would have made the laws mean what they liked.

Yet if it is hard to believe that Salisbury made such an offer with any hope that it would be accepted, it must be admitted that it is also hard to understand what object he could have had in provoking a refusal. Though the Commons had been too wary to give away their advantage before they had made their bargain, they had shown no disinclination to the bargain itself, nor any disposition to deal illiberally in it. The proposal had undoubtedly been advised and deliberate: why should the proposer wish it to miscarry? A docket which I find in the calendar of State Papers, dated April 25, 1610 (the day before Salisbury delivered the King's answer), may perhaps have something to do with it. On the 25th of April a bond for 150,000*l.* was given by the King to the Lord Mayor, Aldermen, and Recorder of London, "*in part security for* 100,000*l. to be lent by*

them." Now we learn from a news-letter of Chamberlain's (2 May) that just about this time there were "privy seals ready printed to be sent abroad."[1] And the true history of the matter may possibly be, that seeing the House of Commons could not be persuaded to vote the supply before they proceeded with the bargain, and the City was not ready to lend without better security than the Crown had to offer, and yet money must be got, the Government had expected to be driven to the expedient of Privy Seals, that is of requisitions for loans of money in small sums from those who were supposed to have money to spare. It would have been inconvenient at such a time for the Crown to be known to be at variance with the Commons on a money question: and therefore the answer to their offer (which might have been given the next day) was postponed for nearly a month; and when given was so contrived as not to touch the point, but to include a new question, which required an answer, and caused the delay of a few days more. But by the time the answer came the King had succeeded in borrowing from the Mayor and Aldermen 100,000*l.* in a lump; and, being rich again while it lasted, he could afford (or Salisbury could afford on his behalf,—for we cannot tell which was moving the other) to assume that air of independence and superiority, which would have been politic, if the hollowness of it had not been so fatally betrayed and so ostentatiously proclaimed. He thought perhaps that if he set his demand high enough, and spoke big enough, he might still recover the position from which he had descended, and make the Commons believe that they were bargaining with one who could afford to wait.

If so, he was mistaken. It was too late to produce such an impression by several weeks. When Salisbury's speech was reported to the House on the 1st of May, Nicholas Fuller (whose popular sympathies had not been chilled by his submission sixteen months before) began the debate with a motion of which we may infer the tenour from the note of Bacon's speech which followed, and is thus given in the Journals.

Mr. Solicitor: *Attributum consilii mobilis,* not *immobilis,*[2] as thus advised.

A decent, modest, respective message.

Finis coronat opus.—Two crowns of actions.—Prevailing and respective Carriage.

The motion therefore must have been for a flat and peremptory

[1] Winw. Mem. III. p. 155. See also S.P. Dom. James I. Vol. LIII. No. 91–93, shewing the preparations for the issue of Privy Seals on the 11th of April.

[2] So printed.

rejection of the King's demand. And according to a letter writer who appears to have been well informed, the first impulse of the House was to "give no answer at all, but remain silent till the King should be pleased to make some more reasonable proposition unto them, or break absolutely the bargain; wherefrom they do not seem now much averse; thinking to have done enough,"[1] etc. This course was opposed however, by Sir Edwin Sandys among others; and after two days debate they agreed upon a message. But though in form and tone it was more according to Bacon's advice, the substance of it was a plain refusal to offer better terms. Nor did they think fit to trust the language to the discretion of the messenger; but reduced it to writing: and much to the dissatisfaction of the Lords (who had particularly desired "that the Committees might have liberty to hear propositions and questions, and to make answers, as also to ask questions"[2]) they expressly restrained them to the delivery of the message, forbidding them to "answer or dispute."

According to the report made by Salisbury to the Lords, it was to this effect.

"That where the Knights, Citizens, and Burgesses of the nether House had offered to give for the matter of Wards, Tenures, and dependants thereon, 100,000*l*., and had by us received answer that his Majesty as then advised would not accept thereof, nor saw reason to depart from his first demand of 200,000*l*. support and 600,000*l*. supply, his occasions being in all appearance now greater than before, and especially the Wards being now by them desired, which before was not spoken of nor included in the King's demand: That they have since entered into re-examination of the matter, and do find no reason to alter their offer: That their purpose was to have laid the burden on the Landsmen:[3] where it was moved unto them that they should think of some course to make up the King's demand, etc.: they answered that they cannot now find how so huge a sum may be levied without grieving a multitude of his Majesty's poor subjects: Howbeit, in all reasonable matters they will be ready to give his Majesty satisfaction. Lastly, they acknowledged their great obligation to his Majesty, who hath given them a further leave to treat than ever was granted to any of their predecessors; and further they would not go."[4]

[1] Beaulieu to Trumbull, 2 May, Winw. Mem. III. p. 153.

[2] C. J. 3 May.

[3] The sense here seems to be left imperfect. Beaulieu, writing an account of this conference to Trumbull (Winw. Mem. III. p. 160) represents them as saying "that the King's demands propounded to them were so high as that it was not in their power to satisfy them: For if those sums should be imposed upon the subject according to the interest of every one, those which had wardable lands should have such a burden laid upon them as they should never be able to bear it, and if they were imposed equally upon the general, that the people would be so offended and moved thereby, that they should not dare propound it unto them."

[4] L. J. p. 589.

If the object of the government was to break the negotiation off, the matter now stood very well for them. But Salisbury's great annoyance and disappointment at the refusal of the Commons to allow their Committees to enter into discussion (of which I find lively traces in both Journals) seems to show that this was not his object. Indeed he not only remonstrated and argued, but hung out signs of accommodation. "Perceiving (says Beaulieu in the letter quoted in the last note) that they were altogether cooled in the bargain, and willing to go back from their offer, he told them that those sums which had been propounded unto them had been tendered rather by way of estimation than of demand;[1] and desired them to be well advised how they let go such an opportunity as they had now in their hands, to free themselves of that yoke of the Wardships and of the rest of their grievances, which they should not always recover; showing unto them the importance and inconveniences growing unto them out of every one of those grievances. But they are not like (he adds) to trouble themselves much further in the matter, until the King shall have modified and reformed his propositions."[2] It appears also from the Commons' Journals that the annoyance was not confined to Salisbury: three other Lords had expressed dissatisfaction "and taxed the proceedings of the House."

7.

The truth was that Salisbury had overshot himself both ways; first in making the essential weakness of his position too apparent, and now in setting his demands too high. Nor was that the worst. If the redress of *grievances* was all the recompense they were to look for—and they were now told that whatever else was given must be paid for at its full value—the least that could be expected was that they would make as much of their grievances as they could. Their Committee had been busy in the enquiry for two months, and reports were beginning to come in fast. On the 24th of April "the great matter of Impositions" had come before them. On the 30th (in spite of a warning in the interval from Salisbury that to "flatter themselves in their private opinions, when cases had been judged in a court proper to determine them .... were but to bark against the moon"[3]) the Speaker had been directed to "take order for the view of the Parliament Records in the Tower," the King's Counsel "to

[1] "They now said for less we shall not have it: therefore a free conference.—A wonder what tempest had fallen: a danger to ask a question.... For the particular, we should have it for less than demanded." Sir E. Sandys's report of Salisbury's speech. C. J. p. 425.

[2] Winw. Mem. III. p. 160.

[3] Speech to the Committee of Conference, April 26. Parl. Deb. 1610, p. 152.

give direction for precedents which they vouched," and "Sir Robert Cotton to assist." On the first of May they had appointed nine of their body to "search records touching Impositions," and fixed a day for discussing the question in the House. The discussion was likely to be particularly inconvenient at that time, for it was said to be on the security of the *Customs* that the 100,000*l.* had been borrowed[1] which had emboldened Salisbury to raise his tone so high; and as the day drew near another attempt was made to intercept it. Unfortunately the means used constituted a fresh grievance, which, in the temper to which they had now been brought, seemed likely to breed fresh troubles. On the 11th of May, when "the Grievances were called for," the Speaker delivered a message, as from the King, warning them that the question as to his *right* to impose duties upon merchandise exported and imported had been settled judicially, and was not to be disputed in the House. Now as the King had been absent from London all the week, a question arose, whence the Speaker received this message: "wherein he, excusing himself for a long time, in the end did confess that he received this message from the body of the Privy Council."[2] That their Speaker should receive communications in this way through the Privy Council was held to be against order, and it was resolved after a warm debate "That the same message, coming not immediately from his Majesty, should not be received as a message; and that in all messages from his Majesty, the Speaker before he delivered them should first ask leave of the House, according as had anciently been accustomed."

Whether the King had anything to do with this particular message is doubtful; but the general terms of the resolution imported a limitation of his liberty of action in which he could hardly have been expected to acquiesce. As soon as it was reported to him, he sent again to enquire whether, if a message were sent to them by their Speaker, and the Speaker declared that it came by warrant from the King in word or writing, or from the body of his Privy Council, they would refuse it? The question was immediately referred to the Committee of Grievances (14 May) and I suppose it was in the course of the debate which followed that Bacon made the speech which comes next. For though there were other occasions on which he may have spoken and probably did speak upon this question, I do not find another in which it presented itself exactly in the same shape. It is taken from a manuscript copy remaining among his own papers, with some corrections and additions in his own hand; and must therefore be supposed to be a thing which he thought worth preserving.

[1] Chamberlain to Winwood. Winw. Mem. III. p. 155.
[2] Parl. Deb. 1610, p. 32.

A Speech of the King's Solicitor, persuading the House of Commons to desist from farther question of receiving the King's messages by their Speaker, and from the body of the Council,[1] as well as from the King's person. In the Parliament 7 Jacobi.[2]

It is my desire that if any the King's business either of honour or profit shall pass the house, it may be not only with external prevailing but with satisfaction of the inward man. For in consent where tongue-strings not heart-strings make the music, that harmony may end in discord. To this I shall always bend my endeavours.[3]

The King's Sovereignty and the Liberty of Parliament are as the two elements and principles of this estate; which, though the one be more active the other more passive, yet they do not cross or destroy the one the other, but they strengthen and maintain the one the other. Take away liberty of Parliament, the griefs of the subject will bleed inwards: sharp and eager humours will not evaporate, and then they must exulcerate, and so may endanger the sovereignty itself. On the other side, if the King's sovereignty receive diminution or any degree of contempt with us that are born under an hereditary monarchy (so as the motions of our estate cannot work in any other frame or engine) it must follow that we shall be a *meteor* or *corpus imperfecte mistum;* which kind of bodies come speedily to confusion and dissolution. And herein it is our happiness that we may make the same judgment of the King which Tacitus made of Nerva. *Divus Nerva res olim dissociabiles miscuit, Imperium et Libertatem.* Nerva did temper things that before were thought incompatible or insociable, Sovereignty and Liberty. And it is not amiss in a great council and a great cause to put the other part of the difference which was significantly expressed by the judgment which Apollonius made of Nero, which was thus: when Vespasian came out of Judea towards Italy to receive the empire, as he passed by Alexandria he spake with Apollonius, a man much admired, and asked him a question of state: *What was Nero's fall or overthrow?* Apollonius answered again, *Nero*

[1] The rest of the heading is added in Bacon's hand.
[2] Harl. MSS. 6797, p. 159.
[3] The words "which when they fail I will fall to my prayers" (which followed in the MS.) have a line drawn through them.

could tune the harp well: but in government he always either wound up the pins too high and strained the strings too far, or let them down too low and slackened the strings too much. Here we see the difference between regular and able princes and irregular and incapable, Nerva and Nero. The one tempers and mingles the sovereignty with the liberty of the subject wisely; and the other doth interchange it and vary it unequally and absurdly. Since therefore we have a prince of so excellent wisdom and moderation, of whose authority we ought to be tender as he is likewise of our liberty, let us enter into a true and indifferent consideration how far forth the cause in question may touch his authority, and how far forth our liberty. And to speak clearly, in my opinion it concerns his authority much, and our liberty nothing at all.

The questions are two. The one whether our Speaker be exempted from delivery of a message from the King without our licence. The other, whether it is not all one whether he receive it from the body of the council, as if he received it immediately from the King; and I will speak of the last first, because it is the circumstance of the present case.

First I say let us see how it concerns the King, and then how it concerns us. For the King, certainly if it be observed it cannot be denied but if you may not receive his pleasure by his representative body, which is his council of estate, you both straiten his Majesty in point of conveniency, and weaken the reputation of his council. All kings, though they be gods on earth, yet as he said they are gods of earth, frail as other men; they may be children, they may be of extreme age, they may be indisposed in health, they may be absent. In these cases, if their council may not supply their person, to what infinite accidents do you expose them? Nay more, sometimes in policy kings will not be seen but cover themselves with their council, and if this be taken from them a great part of their safety is taken away. For the other point of weakening the council, you know they are nothing without the King. They are no body-politic. They have no commission under seal. So as if you begin to distinguish and disjoin them from the King, they are *corpus opacum*, for they have *lumen de lumine*, and so by distinguishing you extinguish the principal engine of the estate. For it is truly affirmed that *Concilium non habet potes-*

tatem delegatam sed inhærentem, and it is but *Rex in cathedra,* the King in his chair or consistory, where his will and decrees, which are in privacy more changeable, are settled and fixed.

Now for that which concerns ourselves. First for dignity, no man must think this a disparagement to us: for the greatest kings in Europe by their ambassadors receive answers and directions from the council in the King's absence; and if that negociation be fit for the fraternity and parity of kings, it may much less be excepted to by subjects. For use or benefit, no man can be so raw and unacquainted in the affairs of the world as to conceive there should be any disadvantage in it, as if such answers were less firm and certain. For it cannot be supposed that men of so great caution as counsellors of estate commonly are (whether you take caution for wisdom or providence or for pledge of estate or fortune) will ever err or adventure so far as to exceed their warrant. And therefore I conclude that in this point there can be unto us neither disgrace nor disadvantage.

For the point of the Speaker. First on the King's part it may have a shrewd illation: for it hath a shew as if there could be a stronger duty than the duty of a subject to a king. We see the degrees and differences of duties in families between father and son, master and servant; in corporate bodies between communalties and their officers, recorders, stewards, and the like; yet all these give place to the King's commandments. The bonds are more special but not so forcible. On our part it concerns us nothing. For first it is but *de canali,* of the pipe, how the King's message shall be conveyed to us, and not of the matter. Neither hath the Speaker any such great dominion as that coming out of his mouth it presseth us more than out of a privy councillor's. Nay it seems to be a great trust of the King towards the house, when the King doubteth not to put his message into their mouth, as if he should speak to the city by their Recorder. Therefore methinks we should not entertain this unnecessary doubt. It is one use of wit to make clear things doubtful. But it is a much better use of wit to make doubtful things clear; and to that I would men would bend themselves.

Though there can be little doubt that this advice was judicious, and that the scruple they stood upon was ill chosen for a ground of

quarrel with the King, the recent proceedings of the Council (as represented by Salisbury, who was always the chief spokesman) had given them some just cause of suspicion and distrust, and they were not in a complying humour. With respect to messages sent by the Speaker immediately from the King himself, whether in word or in writing, they were ready to say that they would receive them as usual "being delivered unto them according to the ancient order of the House." But "concerning the latter part of the question, which touched the Council, the general resolution of the Committee was to make answer that they would receive no messages coming from the Council as messages sent from his Majesty."[1]

If this was all that could be got, it was better to let the matter rest where it was: and the King sent word in the morning that they need not trouble themselves to answer his question. But what was to be done with the resolution of the House which had led him to ask it? Upon that resolution the Committee of Privileges had framed an order, which had been allowed, and should have been entered in the records. As long as this remained among the precedents it was useless to withdraw the question, for it contained the answer. By this time however a disposition had come over them to relent and make the matter up; and when in the course of further discussion it was found that the clerk had not yet entered the order, they had the sense to leave it there; following Bacon's advice in not standing upon the point—("Sovereignty and Liberty to pass in silence: not to be textual:" is the note that remains of what he said[2])—as they might now see it would have been better to do five days before, when he advised them not to contest it. "But in the end" (says Chamberlain) "they saw that *motos præstat componere fluctus*, and with a moderate answer pacified his Majesty."[3]

8.

A difficulty which ought never to have been made was thus easily disposed of: a few fair words and the withdrawal of a needless scruple set it at rest, and no further trouble was to be apprehended from it. But unfortunately it left the real difficulty behind. The scruple about the form of the message had merely postponed the question, what should be done with the message itself; "which was" (says the reporter) "to command the House not to dispute of the King's power and prerogative in imposing upon merchandises exported or imported."[4] This was a point in which it was not so easy to give way on either side. It was the old dispute between

[1] Parl. Deb. 1610, p. 33.
[2] C. J., 19 May.
[3] Winw. Mem. III., p. 175.
[4] Parl. Deb. 1610, p. 32.

Prerogative and Privilege, aggravated by the fact that the question at issue was one of incalculable importance. It is scarcely too much to say that it involved the whole question whether the Commons were to be thenceforth at the mercy of the Crown, or the Crown at the mercy of the Commons. If the King had the power of laying duties at will upon exports and imports, he could carry on the government without the aid of Parliament; if not, the help or consent of the House of Commons being indispensable, they could always control the government by stopping the supplies. The King (who, to do him justice, was always ready to give reasons for what he did, and to believe that if he might but state them in his own way he could convince everybody that he was right) thought to remove the difficulty by a speech. And on this occasion it must be admitted that he had that to say which was much to the purpose, and might if properly managed have done a great deal to clear the way. He was prepared to make some substantial concessions. He was prepared not only to concede to the House of Commons without reserve the right of discussing particular impositions in respect of conveniency or inconveniency, and of complaining of them as grievances (which for practical purposes was almost the same as discussing the right itself of imposing); but also to put a limit upon the exercise of the power which he assumed, by engaging himself not to use it without consulting Parliament.[1] If he could but have confined himself in speech to an intimation of what he *would* concede, and let silence say for him what he would *not* concede, such a declaration from his own mouth might have done much to conciliate opposition. But silence was a gift which had not been given to him. He could not say what he would do, without also saying what he would not do: could not promise to forego the exercise of a right, without first proving that he had it: could not admit that a liberty went so far, without denying that it went further. The consequence was that meaning to tell the Commons that their right to "complain of any just grievance," and therefore to enquire of "the burden and inconvenience" of impositions, was not questioned, he began by warning them not to dispute the King's *power* to impose; and meaning to put an important restriction upon himself in the exercise of that power, he began with an argument in justification of it, which (followed to its logical consequences) implied a pretension to tax not imports and exports only, but all other property.[2] And the general

[1] "Because he may err in the form of laying Impositions upon misinformation, he would never do it but in Parliament. He would hear what both houses could say." Parl. Deb. 1610, p. 35, n.

[2] "In the end he fell into a long speech concerning his power to impose upon merchandises (though his speech was general, and concerned all his subjects' goods)." Parl. Deb. 1610, p. 36.

impression which his speech produced may be gathered from the report sent by Chamberlain to Winwood two or three days after.

"The 21st of this present he made another speech to both the houses, but so little to their satisfaction that I hear it bred generally much discomfort to see our monarchical power and royal prerogative strained so high, and made so transcendent every way, that if the practice should follow the positions, we are not like to leave our successors that freedom which we received from our forefathers, nor make account of anything we have longer than they list that govern. Many bold passages have been since in the Lower House, and amongst the rest a wish that this speech might never come in print."[1]

Instead of appeasing one dispute, the King had in fact (without at all meaning it) raised another of larger dimensions—a dispute involving the entire relation between Sovereignty and Liberty; which it was so important (as Bacon could have told him) to maintain in silence, without coming to exact definitions. The effect was immediate; though to him, I believe, quite unexpected. The first business of the House the next morning was the appointment of a Committee "to devise upon some course to be taken to inform his Majesty how much the liberties of the subject and the privilege of the Parliament was impeached by this inhibition to debate his Prerogative."[2]

In the notes of the debate which ended in the appointment of this Committee Bacon's name does not appear. But in Committee he tried hard, as he had invariably done on like occasions, to turn the discussion from the general question of the right to the particular question of the grievance. It had begun with strong assertions of the right of Parliament to debate freely of all things that concern the Commonwealth, including the Prerogative of the Crown, which was alleged to have been subject in all ages to enquiry both in Parliament and in the Courts of Justice. His course in such cases had always been, not to deny the right, but if possible to prevent the question. And such was his course now. Of his speech, which, having been made in Committee and not in the House, is not mentioned in the Journals, Mr. Gardiner's manuscript supplies us with the following note.

But Sir Francis Bacon took upon him to answer these reasons, and said that he would rather speak therein according to the freedom of his mind than according to the propriety of his

[1] Winw. Mem. III. p. 174.
[2] Parl. Deb. 1610, p. 36. Add. MSS. 4210, f. 27 b.

place. He began with a text, *State super vias antiquas, sed videte quænam sit via recta, et ambulate in eâ.*

He said he had been a Parliament man ever since he was 17[1] years old; within which time he did observe that the Parliament had received divers inhibitions from the Queen to restrain them from debating the matter then in question; wherein he took this difference; that if the matter debated concerned the right or interest of any subject or the Commonwealth, if in that case an inhibition came, he for his part would not advise the House to desist, but to inform the King of the liberty of the House, and so to proceed. But if the matter in question were an essential thing which concerned the Prerogative and the power of the Crown, then the House did always desist from proceeding any further upon such inhibitions received. He gave instance of divers in his time.

In the last Queen's time some debate was moved in the House concerning the Queen's marriage, whereupon the Queen hearing thereof sent an inhibition, which was obeyed accordingly.

Not long after, divers times the matter of Succession was moved, and the Queen sent the like inhibition.

In a° 23 Eliz. a general fast for the whole Commons' House of Parliament was agreed upon, and it was appointed to be in the Temple Church, where solemn warning was given by Mr. Travers the Sunday before the day appointed. But the Queen sent an inhibition to the House, for that it pertained to her ecclesiastical power to appoint fasts, and not proper for the Parliament, which was only to meddle with *meum et tuum.*

So in Queen Mary's [time] the Parliament House entered into a debate what severer course were fittest for the Queen to take with the officers of her house (than was then used). But the Queen sent an inhibition unto them, for that it concerned her in her patrimony, which together with her servants she was able to govern without advice of Parliament. And therefore he persuaded the House to present these matters of Impositions as grievances to the Commonwealth (which the King had given us leave to do), but not to question his power and prerogative to impose.[2]

[1] A mistake, I presume, for 27, or, "had been a Parliament man for 27 years." Bacon was in fact 24 when he first came into Parliament.

[2] Parl. Deb. 1610, p. 38.

It does not appear that these precedents were met by any precedent on the other side—later than the reign of Edward III.—where a debate in Parliament concerning the limits of the prerogative had been *permitted.* But it was easy to find distinctions between each of the cases alleged and the case of the new Impositions, and to show that they were not exactly in point; and the result was a resolution to remonstrate. A petition of Right was accordingly drawn up, setting forth in temperate but firm language the right of Parliament to debate freely of all matters which concern the right and state of the subject, and the impossibility of examining the case of the new Impositions as it affected the subject without enquiring how it stood in law: and ending with a petition that they might "according to the undoubted right and liberty of Parliament proceed in their intended course of a full examination of these new Impositions; that so they might cheerfully pass on to his Majesty's business, from which this stop had by diversion so long withheld them."[1]

This paper was very skilfully worded to avoid offence; and as I think the King had never meant to put any restraint upon the liberty of their proceeding, but fancied on the contrary that he was offering them a very large and unusual indulgence, he was the more disposed to receive it graciously. It was presented to him at Greenwich on the 24th of May at 11 in the morning. The messengers were received with unusual courtesy, and having been "extraordinarily entertained at dinner, were summoned into the withdrawing chamber at 3 to hear his answer: the substance of which was shortly that they had mistaken his meaning, both in his message and in his speech. In his message he had not meant to prohibit absolutely a discussion of the question, but only to suspend it, in order that he might understand their intentions: and in his speech when he explained what powers a King of England had by law, he never meant that he was going to use them for the abridgment of any of their liberties. He begged them to distinguish between his reasons and his conclusions," "granted their petition as themselves had set it down," and desired that "mistaking might no more hinder their business."

With which answer the House being well satisfied, proceeded to their business without further delay.

9.

The message and speech which had given rise to all these doubts and explanations were the more unlucky, because an accident had just happened which tended to bring the King and the Commons

[1] C. J., 23 May, p. 431.

into harmonious action. The assassination of Henry IV, which was announced to the Lower House by Salisbury on the 8th of May, had rekindled their zeal against Papists, alarmed them for the safety of the King's person, and made them look up the laws against Recusants. Nothing reconciles dissensions between allies like the report of an enemy advancing; and if it had not been crossed by that unfortunate message, the news of the murder would very likely have been followed by a vote of supply,—immediate, liberal, and unconditional. Salisbury tried to get that fruit out of it on the first announcement. "After he had represented unto them" (writes Beaulieu on the 9th) "the importance of that accident, and the loss which this state did suffer by it, ... his Lordship exhorted them to be watchful for the safety and good of their prince, and assist him with those means which were requisite for it; seeming to insinuate unto them that this accident would put the King in need of a greater assistance from them than was before required at their hands."[1] And when this hint failed to produce its effect, he made another attempt to bring it about by a more elaborate proceeding. But it was his ill-luck throughout this session that every attempt he made to deliver the King from his embarrassments acted as a reminder to the Commons that as soon as he was delivered they would lose all their hold upon him. Their disposition was indeed for the time more favourable. The temper of the King's answer to their remonstrance, and the anxiety to take securities against the Jesuits which he shared with both the Houses, had sweetened their feelings; and the question of Supply and Support, which had been shut up by their message of the 3rd of May and remained in abeyance ever since, the Lords making no further motion in it, was on the 25th—immediately after the report of the King's answer—brought forward again. But in proposing to reopen it, they did not forget to stipulate that the question of Impositions, the investigation of which had been going on in the meantime with activity, should not be left behind, but proceed *pari passu*.[2] Salisbury felt, I suppose, that, if that was to be the consequence, further delay would only lead to further difficulty; and immediately made a fresh attempt to get the negotiation resumed and pushed forward. The very next day after the passing of that resolution in the Lower House, messengers arrived from the Upper to desire a conference between the Committees "formerly employed in the matter of Tenures;" at which it was intimated that the King was prepared to lower his terms, and they were invited to renew the negotiation, not in a "dry meeting," such as the last was, but "in a free conference," where the committees on both sides

[1] Winw. Mem. III. p. 160. [2] C. J., 25 May.

should come prepared to debate and argue.[1] Which, it seems, was agreed to, and the Commons began forthwith to prepare themselves.

That the subject of discussion was to be the contract which had been under discussion before, and that more favourable terms were now to be offered, appears distinctly from the note in the Lords' Journals of what the Lord Treasurer was to say to the Committees.[2] That in insisting so earnestly that the Conference should be "free" and the Committees authorised to *debate* questions, their motive was to save time and get the terms settled before the case of the Impositions could come on, I infer from the dates. And the business might no doubt have been despatched quicker in that way. But the Commons knew well enough which party could least afford to wait, and they were not to be hurried. If their Committees were to debate the terms of the contract, they must have their instructions beforehand; and instructions required time. That the same time served to collect the records concerning Impositions, was an accident no way inconvenient to *them*. But to Salisbury, if I am right in supposing that his object was to get the contract concluded before the other difficulty came on, it threatened to spoil his whole game. Unless he could hurry the preparations for the Conference, Support and Impositions would go together *pari passu* after all. Accordingly when nearly a fortnight had passed without bringing any news of their progress, another message was sent to remind them of the time of the year, and express a hope that "all protraction, in this so great and necessary a business, might be avoided."[3] And when reply came "that they were preparing for the matters in question; that therein they had slacked no time; and so soon as they were prepared the Lords should hear further from them;" Salisbury seems to have felt that he should lose at that game; and thereupon suddenly changed his tactics; and tried to get at his main end—which was money to go on with—by a nearer way. The answer to the last message urging expedition was received on Friday the 8th of June. On Monday the 11th another was sent, desiring an immediate Conference (with the same Committees who had been employed before) "touching some things which were to be imparted to them by his Majesty's late commandment."[4]

To this they assented at once, without any remark; and the Conference was to take place the same afternoon. But the short interval was passed in anxious consultation upon a point of form, which, as illustrating the temper of the House and the wary distance at which they held their honour, would be worth notice, even if Bacon had not

[1] L. J., p. 601.
[2] L. J., 26 May.
[3] C. J., 8 June.
[4] L. J., 11 June.

been called to take a part in it. The point was this. They were to hear something which the King had commanded the Lords to impart to them. Were the Lords then a body interposed between the King and his subjects? They had objected to receive messages from him by his Council: were they to receive them by the Upper House? The matter was thought grave enough for a Committee.

"Whereupon a Committee was chosen to consider what was fittest to be done: who shortly after resolved that one of our House who was appointed, viz. Mr. Solicitor, should before the Lords spake, desire to say something unto the Lords on the behalf of the House; and that then he should say that which the House directed him; which he did with some amplification."[1]

The office naturally fell to Bacon because he was to be reporter of the proceedings at the Conference. But there can be no doubt that he was the very best man to whom they could have entrusted it; and the little "amplification" which he ventured on may have had something to do with the smooth passage of it. The following is given as the substance of what he said.

They had received a message from their Lordships, desiring a meeting, whereunto they had yielded. But that whether it were in the expressing of it or in the conceiving of it or both, there were some mistakes which had left an impression in the minds of the hearers, which did beget this resolution, which by their commandment he was to intimate to their Lordships, which was this: that if their Lordships did desire this meeting upon intent only to communicate unto them their own conceits or anything which they had received from his Majesty, they were come hither with all willing readiness to receive it. But that if their Lordships were employed herein as messengers only to the House of Commons from his Majesty, who is like the sun which shines directly as well upon the lowest vallies as upon the highest hills, then they were to signify to their Lordships that this course was contrary to the ancient orders, liberties, privileges, and graces of this House. And therefore we are to entertain it as it shall please the House to direct us.[2]

Salisbury was not a man to sacrifice the matter to a scruple about the words. He easily explained that they had desired a meeting, in consequence of something which they had heard from the King, in

[1] Parl. Deb. 1610, p. 51. [2] Ibid. Add. MSS. 4210, f. 37 b.

order that they might take counsel together what should be done. And so the Conference proceeded.

And now it appeared that, though it had been expressly desired by the Lords that the Committees might be the same who had been employed before,[1] the object of the conference was quite different. The business consisted solely of a speech from Salisbury; the object of which was, not to explain how much the King would abate of his former demand and to propose terms for discussion, but simply to urge a present vote of "supply by subsidies," and for that purpose the suspension of all other business,—including "Support" as well as "Grievances,"—till their next meeting in October, when the negotiation of the contract would be resumed. There was no discussion, nor any invitation to discuss: it was a perfectly "dry" meeting.

The motion was one which indicated rather the extremity of the case than the skill of the mover. For except some additional uncertainty as to the course of affairs abroad, and some vague apprehension of the coming ascendancy of Popery in Christendom, consequent upon the removal of Henry IV., he does not appear to have had anything new to communicate which should have induced the Commons to descend from their vantage-ground. He had indeed some fresh acts of popularity on the King's part to announce; some remissions of duty to the merchants, a promise to impose no more duties before their next meeting, and permission to the Lower House "to dispute of his *power* to impose, *in radice*." But as things had been managed, these concessions had been so manifestly the consequence of his necessity, that as long as other and more important concessions remained to be got, they formed the worst of all arguments for taking that necessity away. Salisbury explained frankly enough what he wanted. "For the point of Supply, he wished we would give his Majesty so much as might disengage himself and pay his debts; and that something might remain *in deposito* (in what place or whose hands we pleased) *tanquam thesaurus sacer*, as a dry and standing stock, not to be touched but upon urgent necessity."[2] But he can hardly have expected the House of Commons to overlook the probable consequence of making such a grant in June—namely that their grievances when presented in October would have so much the less chance of respectful consideration.

Such however was the proposition to be submitted to them. Being reported by Bacon, I presume that it was presented in the fairest light which it would bear; but the result was what might

[1] "The Committees to be the same that were last." L. J. p. 611.
[2] Parl. Deb. 1610. Addl. MSS. 4210, f. 39 b.

have been anticipated. A motion for a grant of two subsidies was debated for two days, and after several amendments and fresh propositions and conciliatory messages from the King, ended at last in the postponement by general consent of the whole question. "A message to his Majesty, by Mr. Chancellor, and that we will lay all other business aside and endeavour within a short time to give his Majesty satisfaction" was proposed at last by Sir Edwin Sandys, and "assented unto by the voice of the House."[1] To which the King replied that he did not "misjudge the proceedings of the House in not giving him a subsidy, and was indifferent whether any other motion were made concerning any supply, till they should receive a full answer to their grievances."[2] What better could have been expected? The common sense of the House told them, and each successive move of the government confirmed the impression, that in relieving the King from his own wants they would relieve him from the necessity of considering theirs. Bacon seems to have felt that he had no ground to work upon. In the two days' debate which followed his report, the only record which remains of what he said is this note: from which I can only gather that he spoke in favour of supply.

Sir Fr. Bacon. I will not blast the affections of this House with elaborate speech.—Great hope in the heart. Upon that to proceed.[3]

10.

The failure of this last attempt to obtain a present supply left matters where they were. The Commons had been going on with their preparations for the "free Conference" concerning Tenures to which they had been invited by the Lords, as well as with the search for records touching Impositions, and were now ready to deal with both questions. On the 18th of June they opened communications with the Lords, which resulted in a conference on the 26th; and on the 23rd they began to debate, in committee of the whole House, the great question, "whether the King have power to set impositions upon merchandises without assent of Parliament." The debate appears to have occupied five days—the 23rd, 27th, 28th, and 29th of June, and the 2nd of July: on one of which days—probably the 27th—Bacon made a great speech in defence of the King's right.

Of this he must at one time have meant to preserve a full report.

[1] C. J., 14 June, p. 439. [2] Parl. Deb. 1610, p. 58. [3] C. J., p. 439.

For there was found among his papers a fair copy of part of it, in the same form as the other speeches belonging to the volume entitled *Orationes, Acta, Instrumenta, circa res civiles;* with corrections in his own hand. This was printed in 1734 among the papers appended to Stephens's second collection of "the letters of the Lord Chancellor Bacon," and having been reprinted at full length in the State Trials, is one of the best known of his political writings. But it is a remarkable fact, and shows how little attention has been really bestowed upon these writings even by the most diligent of our lawyers and historians, that though noticed and commented upon by men as eminent as Hargrave and Hallam, it has always been taken for the entire speech; nor am I aware that until Mr. Gardiner discovered in the British Museum the manuscript which he afterwards edited for the Camden Society, anybody had publicly noticed that it is incomplete. The evidence of that manuscript (though not needed to prove the fact,—for no man could read the printed speech attentively without perceiving it) has the great advantage of being conclusive and indisputable, and making further discussion superfluous. It shows that what we have is about half of the whole; and may therefore well seem weak (as Hallam observes that it does) compared with the arguments on the other side. That the argument is weakly handled *as far as it goes*, I think nobody will say; and a judicious speaker reserves the weight of his argument for the close of his speech. How it happened that after taking so much pains with the first half,—and as far as it goes it is carefully composed, carefully transcribed, and carefully corrected,—Bacon did not think it worth while to go on with it, is a question not so easily answered. But I fancy that upon closer consideration of the point of law, or closer scrutiny of the records, such as the very process of preparing the remainder of the speech for the transcriber would naturally entail,—(and when it was made there had been little time to examine the mass of records that had just been disinterred)—he saw reason to alter his opinion, and therefore laid the paper by.

If so, the loss of the remainder of the argument,—I say loss, because the notes in Mr. Gardiner's manuscript will be found to indicate the character and quantity of what is wanting rather than to supply it—is the less to be regretted, because I think we are bound to regard it under the circumstances as an argument which Bacon himself did *not* think worth preserving. And on the same ground I shall hold myself excused from attempting to weigh the rival reasonings or follow the course of the debate. It is enough to know that "after much straining of courtesy who should begin," the debate was commenced by Nicholas Fuller, "who speaks (as you know)"

says Carleton who was present "always honestly, but that time very sufficiently," and who was answered by Sir Henry Montagu, Recorder of London. Bacon's speech appears to have been the second on that side, and with this introduction may be left to explain itself.

An Argument of the King's Solicitor in the Lower House of Parliament, proving the King's Right of Impositions.[1]

And it please you, Mr. Speaker, this question touching the right of Impositions is very great, extending to the prerogative of the King on the one part, and the liberty of the subject on the other; and that in a point of profit and value, and not of conceit or fancy. And therefore, as weight in all motions increaseth force, so I do not marvel to see men gather the greatest strength of argument they can to make good their opinions. And so you will give me leave likewise, being strong in mine own persuasion that it is the King's right, to shew my voice as free as my thought. And for my part I mean to observe the true course to give strength to this cause, which is by yielding those things which are not tenable, and keeping the question within the true state and compass; which will discharge many popular arguments, and contract the debate into a less room.

Wherefore I do deliver the question, and exclude or set by as not in question five things. First, the question is *de Portorio* and not *de Tributo*, to use the Roman words for explanation sake; it is not, I say, touching any taxes within the land, but of payments at the ports. Secondly, it is not touching any impost from port to port, but where *claves regni*, the keys of the kingdom, are turned to let in from foreign parts, or to send forth to foreign parts; (in a word) matter of commerce and intercourse, not simply of carriage or vecture. Thirdly, the question is (as the distinction was used above in another case) *de vero et falso*, and not *de bono et malo*; of the legal point, and not of the inconvenience, otherwise than as it serves to decide the law. Fourthly, I do set apart three commodities, wool, wool-fells, and leather, as being in differing case from the rest; because the custom upon them is *antiqua custuma*. Lastly, the question is not whether in matter of imposing the King may alter the law by his prerogative, but whether the King have not such a prerogative by law.

[1] Harl. MSS. 6797, f. 147.

The state of the question being thus cleared and freed, my proposition is, that the King by the fundamental laws of this kingdom hath a power to impose upon merchandise and commodities both native and foreign. In my proof of this proposition all that I shall say, be it to confirm or confute, I will draw into certain distinct heads or considerations, which move me and may move you.

The first is an universal negative. There appeareth not in any of the King's courts any one record, wherein an imposition laid at the ports hath been overthrown by judgment; nay more, where it hath been questioned by pleading. This plea, *quod summa prædicta minus juste imposita fuit, et contra leges et consuetudines regni hujus Angliæ, unde idem Bates illam solvere recusavit, prout ei bene licuit,* is *primæ impressionis.* Bates was the first man *ab origine mundi* (for anything that appeareth) that ministered that plea. Whereupon I offer this to consideration. The King's acts that grieve the subject are either against law and so void, or according to strictness of law and yet grievous; and according to these several natures of grievance there be several remedies. Be they against law? Overthrow them by judgment. Be they too strait and extreme, though legal? Propound them in Parliament. Forasmuch then as impositions at the ports, having been so often laid, were never brought into the King's courts of justice but still brought to Parliament, I may most certainly conclude that they were conceived not to be against law. And if any man shall think that it was too high a point to question by law before the Judges, or that there should want fortitude in them to aid the subject; no, it shall appear from time to time in cases of equal reach, where the King's acts have been indeed against law, the course of law hath run, and the Judges have worthily done their duty.

12 H. 4. 13 H. 4. As in the case of an imposition upon linen cloth for the alnage; overthrown by judgment.

40 Assis. The case of a commission of arrest and committing of subjects upon examination without conviction by jury, disallowed by the Judges.

2 Eliz. Scrogg's case. A commission to determine the right of the exigenter's place, *secundum sanam discretionem,* disallowed by the judges.

43 Eliz. The case of the monopoly of cards, overthrown and condemned by judgment.

I might make mention of the jurisdiction of some courts of discretion, wherein the Judges did not decline to give opinion.

Therefore had this been against law there would not have been *altum silentium* in the King's courts. Of the contrary judgments I will not yet speak; thus much now, that there is no judgment, no nor plea, against it. Though I said no more, it were enough in my opinion to induce you to a *non liquet*, to leave it a doubt.

The second consideration is the force and continuance of payments made by grants of merchants, both strangers and English, without consent of Parliament. Herein I lay this ground, that such grants considered in themselves are void in law: for merchants, either strangers or subjects, they are no body corporate, but singular and dispersed persons; they cannot bind succession, neither can the major part bind the residue: how then should their grants have force? No otherwise but thus: that the King's power of imposing was only the legal virtue and strength of those grants; and that the consent of a merchant is but a concurrence, the King is *principale agens*, and they are but as the patient, and so it becomes a binding act out of the King's power.

Now if any man doubt that such grants of merchants should not be of force, I will allege but two memorable records; the one for the merchants strangers, the other for the merchants English. That for the strangers is upon the grant of *chart. mercator.*, of three pence in value *ultra antiquas custumas*; which grant is in use and practice at this day. For it is well known to the merchants, that that which they call stranger's custom, and erroneously double custom, is but three pence in the pound more than English. Now look into the statutes of subsidy of tonnage and poundage, and you shall find (a few merchandise only excepted) the poundage equal upon alien and subject; so that this difference or excess of three pence hath no other ground than that grant. It falleth to be the same in quantity, there is no statute for it, and therefore it can have no strength but from the merchants' grants; and the merchants' grants can have no strength but from the King's power to impose. 31 Ed. 1. Chart. mercatoria.

For the merchants English, take the notable record in 17 E. III. where the commons complained of the forty shillings 17 Ed. 3.

upon the sack of wool as a mal-toll set by the assent of the merchants without consent of Parliament; nay, they dispute and say it were hard that the merchants' consent should be in damage of the commons. What saith the King to them? doth he grant it or give way to it? No but replies upon them and saith, it cannot be rightly construed to be in prejudice of [the] commons, the rather because provision was made that the merchants should not work upon them by colour of that payment to increase their price; in that there was a price certain set upon the wools; and there was an end of that matter: which plainly affirmeth the force of the merchants' grants. So then the force of the grants of merchants both English and strangers appeareth, and their grants being not corporate are but noun adjectives without the King's power to impose.

The third consideration is of the first and most ancient commencement of customs; wherein I am somewhat to seek; for as the poet saith *Ingrediturque solo, et caput inter nubila condit*, the beginning of it is obscure: but I rather conceive that it is by common law than by grant in Parliament. For first Mr. Dier's opinion was that the ancient custom for exportation was by the common laws; and goeth furder, that that ancient custom was the custom upon wools, woolfells, and leather. He was deceived in the particular, and the diligence of your search hath revealed it; for that custom upon those three merchandises grew by grant of Parliament 3 E. I.; but the opinion in general was sound; for there was a custom before that: for the records themselves which speak of that custom do term it a new custom, *Alentour del novel custome*, as concerning the new custom granted, etc.: this is pregnant, there was yet a more ancient. So for the strangers, the grant in 31 E. I. *chart. mercator.* is that the three pence granted by the strangers should be *ultra antiquas custumas*, which hath no affinity with that custom upon the three species, but presupposeth more ancient customs in general. Now if any man think that those more ancient customs were likewise by Act of Parliament, it is but a conjecture: it is never recited *ultra antiquas custumas prius concessas*, and Acts of Parliament were not much stirring before the great charter, which was 9 H. III. And therefore I conceive with Dier, that whatsoever was the ancient custom was by the common law. And if by the

common law, then what other means can be imagined of the commencement of it but by the King's imposing?

The fourth consideration is of the manner that was held in Parliament in the abolishing of impositions laid: wherein I will consider first the manner of the petitions exhibited in Parliament, and more specially the nature of the King's answers. For the petitions I note two things. First, that to my remembrance there was never any petition made for the revoking of any imposition upon foreign merchants only. It pleased the *Decemviri* in 5 E. II. to deface *chart. mercator.* and so the imposition upon strangers, as against law. But the opinion of these reformers I do not much trust, for they of their gentleness did likewise bring in doubt the demy-mark, which it is manifest was granted by Parliament, and pronounced by them the King should have it, *s'il avoit le doit.* But this is declared void by 1 E. III. which reneweth *chart. mercator.*; and void must it needs be, because it was an ordinance by commission only, and that in the time of a weak king, and never either warranted or confirmed by Parliament. Secondly I note that petitions were made promiscuously for taking away impositions set by Parliament as well as without Parliament; nay that very tax of the *neufiesme*, the ninth sheaf or fleece, which is recited to be against the King's oath and in blemishment of his crown, was an Act of Parliament, 14 E. III. So then to infer that impositions were against law because they are taken away by succeeding Parliaments, it is no argument at all; because the impositions set by the Parliaments themselves, which no man will say were against law, were nevertheless afterwards pulled down by Parliament. But indeed the argument holdeth rather the other way, that because they took not their remedy in the King's courts of justice, but did fly to the Parliament, therefore they were thought to stand with law.

Now for the King's answers: if the impositions complained of had been against law, then the King's answer ought to have been simple, *tanquam responsio categorica, non hypothetica;* as Let them be repealed, or Let the law run: but contrariwise they admit all manner of diversities and qualifications: for

Sometimes the King disputeth the matter and doth nothing; as 17 E. III.

Sometimes the King distinguisheth of reasonable and not reasonable, as 38 E. III.

Sometimes he abolisheth them in part, and letteth them stand in part, as 11 E. II. the record of the *Mutuum*, and 14 E. III. the printed statute whereof I shall speak more anon.

Sometimes that no imposition shall be set during the time that the grants made of subsidies by Parliament shall continue, as 47 E. III.

Sometimes that they shall cease *ad voluntatem nostram:* And sometimes that they shall hold over their term prefixed or asseysed.

All which sheweth that the King did not disclaim them as unlawful, for *Actus legitimus*[1] *non recipit tempus aut conditionem;* if it had been a disaffirmance by law they must have gone down *in solido*, but now you see they have been tempered and qualified as the King saw convenient.

The fifth consideration is of that which is offered by way of objection; which is, first that such grants have been usually made by consent of Parliament; and secondly that the statutes of subsidies of Tonnage and Poundage have been made as a kind of stint and limitation, that the King should hold himself unto the proportion so granted and not impose further; the rather because it is expressed in some of these statutes of Tonnage and Poundage, sometimes by way of protestation and sometimes by way of condition, that they shall not be taken in precedent, or that the King shall not impose any further rates or novelties, as 6 R. II. 9 R. II. 13 H. IV. 1 H. V. which subsidies of Tonnage and Poundage have such clauses and cautions.

To this objection I give this answer. First that it is not strange with kings, for their own better strength and the better contentment of their people, to do those things by Parliament, which nevertheless have perfection enough without Parliament. We see their own rights to the crown which are inherent, yet they take recognition of them by Parliament. And there was a special reason why they should do it in this case, for they had found by experience that if they had not consent in Parliament to the setting of them up, they could not have avoided suit in Parliament for the taking of them down. Besides there were

[1] So MS.

some things requisite in the manner of the levy for the better strengthening of the same, which increase could not be done without Parliament; as the taking the oath of the party touching the value, the inviting of the discovery of concealment of custom by giving the moiety to the informer, and the like.

Now in special for the statutes of subsidies of Tonnage and Poundage, I note three things. First that the consideration of the grant is not laid to be for the restraining of impositions; but expressly for the guarding of the sea. Secondly that it is true that the ancient form is more peremptory, and the modern more submiss; for in the ancient form sometimes they insert a flat condition that the King shall not further impose; in the latter they humbly pray that the merchants may be demeaned without oppression, paying those rates; but whether it be supplication or whether it be condition, it rather implieth the King hath a power; for else both were needless, for *conditio annectitur ubi libertas præsumitur*, and the word oppression seemeth to refer to excessive impositions. And thirdly, that the statutes of Tonnage and Poundage are but *cumulative* and not *privative* of the King's power precedent, appeareth notably in the three pence overplus, which is paid by the merchants strangers; which should be taken away quite, if those statutes were taken to be limitations; for in that, as was touched before, the rates are equal in the generality between subjects and strangers, and yet that imposition, notwithstanding any supposed restriction of these acts of Subsidies of Tonnage and Poundage, remaineth at this day.

The sixth consideration is likewise of an objection; which is matter of practice. Viz. that from R. II.'s time to Q. Mary, which is almost 200 years, there was an intermission of impositions, as appeareth both by records and the custom-books.

To which I answer; both that we have in effect an equal number of years to countervail them, namely, 100 years in the times of the three kings Edwards, added to 60 of our last years; and *extrema obruunt media;* for we have both the reverence of antiquity and the possession of the present times, and they but the middle times; and besides, in all true judgment there is a very great difference between an usage to prove a thing lawful, and a non-usage to prove it unlawful. For the practice plainly implieth consent; but the discontinuance may be either because

it was not needful though lawful, or because there was found a better means, as I think it was indeed in respect of the double customs by means of the staple at Calais.

Here the manuscript ends, but without any appearance of being finished. Of the rest we know nothing beyond what may be gathered from the following notes; which seem however to have been taken down by an ear witness, and if taken as carefully as the notes by the same hand of the part which we have just read, may be trusted as giving the heads of the argument; and lawyers may perhaps be able to supply the connexion.

Ob. No mention of his power in *Prærogativa Regis*, Bracton, Bryton, or other authors.

Sol. Case de Mynes. The King hath many prerogatives not mentioned in that statute.

Jus. { *Publicum*—frequent in writers.
Imperii—rare to be found.

Ob. An aspersion drawn from the proceedings against the Lord Latimer.

Sol. He ransacked the people; took interest of the King for his own money. They did this of their own authority, and no sentence against Lyons till the King had disavowed him.

Ob. The King's power is restrained by Acts of Parliament.

Sol. Those statutes of 2 natures.

1. That the King shall not impose.
2. The second sort make open trade.

Those that be expressly restrictive:—Magn: Ch: 25 Ed. I. 7. the male toll of the wools of 40*s.* per pack and such other should be no more taken, but the 6th chapter extends to taxes and tallages. Only within land.

Wool or such things, *i. e.* woolfells and leather, and no other things protected by 14 E. 3 cap. 21, made upon a petition which was made of 5 things; wools, fells, leather, lead, tin.

The King grants mitigation for the 3—wool, fells, and leather; but for lead and tin he would not hear of it.

So 45 E. 3, 4, *et* 11 R. 2, cap. 9. The King binds his power to impose only upon those three commodities. So these statutes apply the words "such things" to those three things.

The statutes of free trade make nothing. 15 E. 3 cap. 5 says there shall be free trade; but that is according to the statute of 14 E. 3 cap. 2, and the words of that law was, paying the subsidies and customs and other reasonable profits. Reasonable, *i. e.* not certain, but arbitrary and uncertain; which must needs be meant of impositions. Statutes of free trade.

Many authorities that Kings shall not be bound by general words. Samson not to be bound by cobwebs but by cords. Lord Barkley's case; the King bound to give an addition, because indictment is named. General words.

9 E. 3, *et* 25 E. 3, 22 R. 2, H. 4; all statutes of open trade directly levied[1] to the intrusions of corporations; not to be extended to the King's power, for that were *aliud agere* than the law-makers intended.

Ob. The King may not impose but upon a restraint by Parliament.

Sol. Then it follows that if the King have power to restrain without act of Parliament, he may impose during the restraint. And that he may restrain proved by the 4 mentioned by Mr. Jones.

Imposition of wines during a restraint by Parliament. No judgment to overthrow the King's power, but on the other side.

1. Eliz. The imposition of cloth held good because it succeeded wool. But the judges makes no mention of that reason. But their reason was because the King might restrain the person. He hath *claves regni.*

No difference between the person and the goods: *corpus supra vestimentum.* Will you force him to trade by factor?

2. A second judgment, 1 Eliz. Germyn Cyall, a Dutchman, who had a licence 1° Mary to trade, notwithstanding any restraint or proclamation made or to be made. He pleaded his licence, and so it was adjudged against the Queen. [But the matter was judged for the Queen[2]].

3. Sir Jo. Smith's case. Imposition of allum, 3^{s} 4^{d} per kyntall. Judgment could not be given against Smyth, if the imposition had not been lawful.

2. Bates' case.

[1] Sic. qu. levelled?

[2] Erased.

2 judgments by way of admittance, and 1 expressly in the point.

As *posteriores leges priores abrogant,* so new judgments avoid the former. The records reverent things, but like scarecrows.

The Common Law.

The reason for the imposition is, whatsoever concerns the government of the kingdom as it hath relation to foreign parts—the law hath reposed a special confidence in the King. The law cannot provide for all occasions.

The law doth repose no greater confidence in the King in this than in other things; pardoning of offenders, dispensing of laws, coin, war.

Though you have no remedy by law, yet you may complain in Parliament, as your ancestors have done, by petition. And God and nature hath provided a remedy. Custom like an ivy which grows and clasps upon the tree of Commerce.

The King shall judge of the time to impose. But the measure and excess the judges will moderate.

Noted that Christ wrought no miracle touching money but once, and that was when question was of tribute money.

So he wisheth that for this sea-penny (for it is no land-penny), if it be due to Cæsar we[1] may have it. But if not, that we[1] may lose net and labour and all.[2]

The following note in Dudley Carleton's hand belongs apparently to this debate; at what period in it I cannot determine. But if Bacon made any reply to Whitelock's speech, which was delivered on the 2nd of July[3]—and it is not unlikely that he did, though Mr. Gardiner's manuscript has no indication of it—this is probably a note from it.

Touching the grievance of increase of Customs.

Mr Sollicitor at the Committee—

All the Statutes alleged by Mr Whitlock against increase of Customs answered by a distinction of Port duties and Land duties.

[1] 'Wee' in MS. in both places. If it be the right word Bacon must have been speaking in the person of the King's Counsel. But I think it should be 'he' in both places—i. e. the King himself.

[2] Addl. MSS. 4210, f. 56 b. Parl. Deb. 1610, p. 69.

[3] Parl. Deb. 1610, p. 103. C. J. p. 445.

The King hath *claves maris*, not *claves terræ*.

3 port duties { 1 Custom, 2 Subsidy, 3 Impost } ereated by { law of England. Statute Prerogative.

The end of the
1. The ancient sustentation of the Crown.
2. The King's guarding of the sea for security of merchants.
3. Policy of trade, to do in that ease as strangers do, and if they impose to reimpose as occasion serves.

Many things there are in the King's power which we must trust the King withal, as the making of war and peace, which it is presumed he will not do but for the good of his subjects, pardoning of felons, etc. whom though the King may generally pardon, yet we are to repose trust in him that he will not do it.[1]

"All this debate" (says Carleton writing to Sir Thomas Edmunds) "was at Grand Committees, the Speaker being in the House but not in his chair; and when the powder was all spent on both sides, we grew in the end to this peaceable conclusion,—not to put the question of the right, to condemn thereby the judgment of the Exchequer in the matter of currants: whereof all this is the consequence: but to frame a petition by way of grievance implying the right, though not in express terms; which was accordingly done."[2]

The conclusion therefore, whatever may be thought of the arguments, was in accordance with Bacon's motion, who had from the beginning, as we have seen, advised this very course; and was presently to be employed in presenting the petition itself.

11.

The result then of this long debate was the appointment of a Committee (3 July) "to consider of the frame of a petition to be offered to the King touching Impositions."[3] But in the meantime the question of Support had been reopened and made a step in advance. In a conference between the two Houses on the 26th of June, Salisbury had informed the Committee of the Commons how much the King would now consent to abate of his former demand for the concessions proposed: he would take for them 140,000*l.* per

[1] State Papers, James I. Domestic. Vol. 56.
[2] Carleton to Edmunds, 13 July 1610. Add. MSS. 4176, f. 87.
[3] C. J. p. 445.

annum, above the annual revenue which they now yielded;[1] which appears to have been estimated at 80,000*l.*[2] This was an abatement of 60,000*l.* per annum in his demand for *Support;* and as nothing was said about *Supply*, his other demand of 600,000*l.* as a preliminary condition of the bargain, may be considered as having been withdrawn. This new and much improved offer, being reported to the House the next day, had been immediately referred to a Committee. But the answer had to wait for the Grievances, which were to proceed *pari passu*, and were now a little behind.

The delay however was not long. The Committee appointed on the 3rd of July (of which Bacon was a member) brought up their report on the 4th. The petition concerning Impositions was then immediately read in the House and passed: and the collection of Grievances being now complete, the preamble was agreed to and ordered to be engrossed. Bacon, accompanied by twenty of the House, was appointed to present them: which he did on the 7th, with the following speech, as reported by himself.

A SPEECH USED TO THE KING BY HIS MAJESTY'S SOLICITOR, BEING CHOSEN BY THE COMMONS AS THEIR MOUTH AND MESSENGER, FOR THE PRESENTING TO HIS MAJESTY OF THE INSTRUMENT OR WRITING OF THEIR GRIEVANCES. IN THE PARLIAMENT 7 JAC.[3]

Most gracious Sovereign,

The knights, citizens, and burgesses assembled in Parliament, in the house of your commons, in all humbleness do exhibit and present unto your sacred Majesty, in their own words though by my hand, their Petitions and Grievances. They are here conceived and set down in writing, according to ancient custom of Parliament. They are also prefaced according to the manner and taste of these later times. Therefore for me to make any additional preface, were neither warranted nor convenient; especially speaking before a King, the exactness of whose judgment ought to scatter and chase away all unnecessary speech, as the sun doth a vapour.

This only I may say; Since this session of Parliament we have

[1] "I crave 140,000*l.* per annum, in retribution of such things as I mean to bargain for at this Parliament, clear in addition to that I formerly received by the natures of those things that are now to be bargained for." Parl. Deb. 1610, p. 121.

[2] C. J. p. 444.

[3] Harl. MSS. 6797, fo. 135. The last sentence added in Bacon's hand.

seen your glory, in the solemnity of the creation of this most noble Prince. We have heard your wisdom, in sundry excellent speeches which you have delivered amongst us. Now we hope to find and feel the effects of your goodness, in your gracious answer to these our petitions. For this we are persuaded, that the attribute which was given by one of the wisest writers to two of the best emperors; *Divus Nervà et divus Trajanus*, (saith Tacitus) *res olim insociabiles miscuerunt, Imperium et Libertatem;* may be truly applied to your Majesty. For never was there such a conservator of regality in a crown, nor ever such a protector of lawful freedom in a subject.

Only this (excellent Sovereign): Let not the sound of grievances, (though it be sad) seem harsh to your princely ears: it is but *gemitus columbæ*, the mourning of a dove, with that patience and humility of heart which appertaineth to loving and loyal subjects. And far be it from us, but that in the midst of the sense of our grievances we should remember and acknowledge the infinite benefits, which by your Majesty next under God we do enjoy; which bind us to wish unto your life fulness of days; and unto your line royal, a succession and continuance even unto the world's end.

It resteth that unto these petitions here included I do add one more that goeth to them all: which is, that if in the words and frame of them there be any thing offensive, or that we have expressed ourselves otherwise than we should or would, that your Majesty would cover it and cast the veil of your grace upon it, and accept of our good intentions and help them by your benign interpretation.

Lastly, I am most humbly to crave a particular pardon for myself that have used these few words, and scarcely should have been able to have used any at all, in respect of the reverence which I bear to your person and judgment, had I not been somewhat relieved and comforted by the experience which in my service and access I have had of your continual grace and favour.

The answer to this petition was given on Tuesday the 10th of July, both Houses attending by command. The length of the paper and the shortness of the time was alleged with very good show as a reason for not dealing with all the articles at that time. An obvious distinction of character suggested the separation of those which con-

cerned matters of government from those which concerned matters of profit, and the selection of the last (which all related to impositions of one kind or another, and went naturally with the great question which had been so long under debate) to be answered at once. But before he proceeded further, the King called upon Salisbury to declare "both what occasion had moved his Majesty to lay the late Impositions, and how he (as his officer) had observed his direction in the distribution of the same. Who thereupon made" (says Carleton) "a long and good narration, showing the reasons of those impositions, with all the circumstances;—excusing himself for the invention of this means to raise money, upon the last Lord Treasurer; for the occasion, upon the Irish wars in Odohartie's rebellion; for the ratings upon the merchants,—who being assembled from all parts of the kingdom gave their assents; and for the warrantise upon the Judges,—who had confirmed the proceedings in the general by a partial judgment: So as wherever the fault lay (if it were a fault) my Lord stood *rectus in curiâ*."[1]

"Of which he had no sooner made an end" (says another reporter) "but the King (well approving his relation, and adding thereunto many things that were material) commanded the Clerk of the Higher House to read openly some such answers as he had caused to be put in writing to some part of the grievances which had been exhibited by the Lower House, with promise to give answer to the rest before the session ended. The substance whereof was this which followeth:—

First, that the payment upon alehouses should cease.

That the impost upon coals shipped from the river of Blith should be taken away.

That the new Drapery should be referred absolutely to the law.

And for the Impositions upon merchandise, he pronounced this answer with his own mouth: that now they had heard the cause and manner of his proceeding in them, his Majesty would make them see that he would be so far from giving his people cause to fear any prejudice by using too severe a hand in that matter, as although he knew that the Lower House was not a place to determine the laws in a case of a private man, much less concerning a Prince's right, yet he was pleased out of his own mere grace to assure them (besides the great abatement which he had made during this sessions of divers imposts to his great loss) that he would be willing to assent to an act by which his power should be suspended

[1] Carleton to Edmunds, 13 July, 1610. Addl. MSS. 4176, f. 88. Birch's copy.

from imposing any more upon merchandises, without consent of Parliament."[1]

To "let losers have their words" is excellent advice to the winner, and might well have been acted on in this case by the House of Commons. Whatever lawyers might think of the justice of the judgment in Bates's case, there could be no doubt it was a very strong point in favour of the government. Possession is nine points of the law, and till that judgment was reversed, it could not be denied that the Government was in possession. "Though I am no professor of the law," said Salisbury, "(and therefore mean not to make lawyers sport by putting cases) yet so far as my weak logic will help me to make a formal and a binding argument, I will make use of it rather than to suffer any imputation upon the justice of his Majesty's actions.

"First, I say that whatever is done by the warrant of a legal judgment, and in his proper seat of justice, is not unlawful.

"The new impositions were laid upon merchandises in the port after a legal judgment, whereby his Majesty's right was declared in open Court, judicially argued, and sentenced, in the case of currants.

"And therefore the new Impositions were not unlawful."[2]

As against the charge of *illegality*, the argument seems to me unanswerable. The judgment might be reversed, or the law might be altered; but until one or other were done, I do not see how the conclusion could be resisted. And therefore if the King, having so strong a point in his favour, was willing to compromise the dispute by voluntarily divesting himself of the disputed power for the future, I think the Commons would have done wisely to leave the dispute and take the offer. It was a great surrender; and there was no chance of getting the thing done so quickly, cheaply, and quietly, in any other way.

But if the loser should always be allowed to have his words, it is only because they can do him no good; and we want another proverb to warn him for his own sake not to indulge in them. If Bacon had been employed to draw up the answer to this article as well as the rest,[3] I think he would have left to Salisbury the assertion of the right in law, and made the King say no more than that he was willing to divest himself of it by Act of Parliament. As it was, the implied assumption that he did legally possess the power which the House had just voted contrary to law, and therewithal the implied censure of their whole proceeding, marred the effect of a concession

[1] Parl. Deb., 1610. Appendix, p. 153. [2] Parl. Deb., 1610, p. 158.

[3] There is a draft of the answer to the others, in Bacon's hand, with corrections by Salisbury. S. P. Dom. James I., Vol. lvi. no. 19.

which should have been accepted with mere gratitude and joy. How it *was* accepted we learn from Dudley Carleton, who appears to have been a very dispassionate though a very attentive and intelligent observer. The questions relating to matters of profit (he says) the King "presently resolved to the satisfaction of that house in all particulars; save only in the new Impositions: in which, though he promised to give way to a bill that never any hereafter should be laid but with the assent of Parliament, yet because he did not as freely take away all which were last imposed, they went away ill satisfied: which they testified in their next day's meeting, when as subsidies were proposed, and no more could be obtained but one subsidy and a single fifteen: which a knavish burgess said (but in the hearing of few) would do the King much good, and serve as a *subpœna ad melius respondendum*."[1]

12.

That knavish remark, though made in the hearing of few, probably expressed the thoughts of many. The King's last demand for his Tenures was still under consideration; and it was not perhaps the reception of the petition so much as the thought of the impending bargain that suggested that cautious vote. The most discreet and gracious answer could hardly have made them forget that an ampler subsidy would have made the King harder to deal with.

He had asked, in exchange for the things he had consented to part with, 220,000*l.* On the 13th of July, the Commons agreed among themselves to offer 180,000*l.*:—a sufficient proof that *they* at least were really desirous of concluding the bargain. Whether the Government were equally in earnest appears to have been a question with some; though, considering that the Crown had certainly the greater need and apparently the greater gain, it is hard to imagine why. "Now we are come so near a bargain" (writes Carleton on the same day) we shall be able to make judgment at our next conference with the Lords, whether this contract which hath been so long entertained, was from the beginning *de veras*, as the Lords would have us believe, or *de burlas*, as some of our wise men still suspect."[2]

If the question were to be decided by the result of that conference, the answer must undoubtedly have been, *de veras*. "Yesterday" (writes Carleton again on the 17th) "we had a conference with the Lords, and nothing concluded in the matter of contract, by reason of the King's absence, but much art used on both sides: on ours to value our offer, which was performed by Sir Edwyn Sandys, and at

[1] Carleton to Edmunds, 13 July, 1610. Addl. MSS. 4176, f. 87 b.
[2] Ibid. f. 88 b.

large you will not doubt; on the Lords' side, *pour encherir la merchandise*, and this by my Lord Treasurer, who came upon some disadvantage, because our men were prepared, but did so well acquit himself *ex re natâ*, and so clearly open all the particularities of the contract, that he gave very extraordinary contentment; though for the issue of it we know no more than before what judgment to make, for it is wrapped up in the clouds, and either we shall have it in a sweet shower or a storm the last day of the session. Yet there is likelihood of another conference before that day, when matters will be brought nearer to a point."[1]

Another reporter, also very well informed,—writing on the same day, but apparently at a later hour—gives further particulars: namely that Salisbury, having read a letter from the King in which he offered to meet them half way and take 200,000*l.*, earnestly recommended them to accept the offer.

"And so as we were departing, he called us back again, and told us that now he had delivered his Majesty's final and peremptory resolution; that the distance was little and the bargain advantageous: If we now refused, his Majesty would instantly dissolve the Parliament, and would never make the like offer to this assembly. So we all returned to the House and instantly put it to the question, and yielded to give his Majesty a perpetual revenue of 200,000*l.* a year upon these conditions:

1. First, that the Court of Wards be dissolved, together with the Dependances, which are respite of Homage, restraint of Alienation, the prefines and the post-fines *pro licentiâ concordandi*.

2. Item, that purveyance be quite taken away; and to that end that the authority of the Green Cloth be put down.

3. Item, that Informers be banished.

4. Item, that his Majesty shall claim no old debts.

5. Item, that he shall lay claim to no lands which have been threescore years out of his possession.

6. Item, that contrary to the present use, all his Majesty's patents be strictly interpreted against the King and benign for the subject.

7. Item, that Lessees be not turned out of possession for non-payment.

8. Item, that the subject may be permitted to plead a general plea against his Majesty, etc., and divers other particulars of great moment.

Now remains there to be resolved on, the assurance, and with what cords we shall bind Sampson's hands, that is to say his Majesty's Prerogative; and secondly, the manner and means of levy, which will prove a business of great intricacy: and these two branches are referred till the next session of Parliament, which will be in October at the farthest: and so for this time the King and Commons are like to part in the lovingest terms that ever any subjects of England did rise from Parliament."[2]

[1] C. and T. of James I., p. 128.
[2] Jo. Pory to Sir Ralph Winwood, 17 July, 1610. Winw. Mem. iii. p. 194.

Though the year was too far advanced to allow of their following the business to its full conclusion, there was every appearance (so far) of earnestness and good faith on both sides; and before they parted formal memorials were exchanged between the two Houses, setting forth the state of the negotiation, and binding themselves to go on with it at their return. But there was one important business which still remained to be transacted, and upon the issue of which the fate of the bargain might still depend. Thus far, the Commons had made good their resolution that Grievances and Supplies should proceed together with equal steps, and had found the fruit of it. But the steps could only be alternate. It was in this case the *last* step that gave the advantage; and Salisbury won it for the King. By dividing the Grievances into matters of government and matters of profit, and taking the last first, he contrived after all to extract a definitive assent from the Commons to the proposed terms of contract, before they had heard the King's answer to the most important articles in their petition. The memorials of the contract were exchanged on Saturday the 21st of July, and on Monday the 23rd his Majesty's gracious answer to the remaining grievances was read openly by the Clerk; after which the Parliament was immediately prorogued till the 16th of October. Now these remaining grievances included all those (the new Impositions only excepted) upon which the Government and the popular party were most at variance,—Deprived and silenced ministers, Pluralities and non-residents, abuse of Excommunication, authority of the Ecclesiastical Commission, Prohibitions, Proclamations, and Jurisdiction of Provincial Councils: —and although the answers when they came were put in as gracious a shape as could be devised, it was not possible to make them satisfactory to those with whom the complaint originated. To give them an opportunity of talking all these matters over in the House, while the contract remained unconcluded, would no doubt have been inconvenient. But would it have been *less* inconvenient than that they should be sent to talk them over for three months in the country, where the case on behalf of the government was not likely to be so well represented? I think not. The Memorial of the Contract drawn up by the Commons contains their answer to a question which had been proposed to them by the Lords—who would seem therefore not to have been without their apprehensions on this head —namely, "What matter of content in the interim, shall be brought down into the country?" Their answer is—

"1. To the meaner sort, the assuring them that nothing shall be levied upon their ordinary victual; *videlicet*, Bread, Beer, and Corn, nor upon their handy labours.

2. To the better sort, the view of those things, which in lieu of that sum we shall receive from his Majesty: whereof copies to be taken down by such as please.

3. In general, to all, his Majesty's gracious answer to our Grievances."[1]

But this was written before the gracious answer to the last articles had been delivered, and it must have seemed doubtful, when it came, whether it was gracious enough for the purpose. To "the meaner sort" indeed, the assurance offered would probably be sufficient. But it was not with the meaner sort that the difficulty would lie. "The better sort," in balancing the cost against the gain, would compare the taxes to which they had been accustomed with those which were now threatened. Those who were old enough to have paid taxes for 20 years would remember what they had had to pay in 1593 and 1594, when for the first time a whole subsidy (which then yielded 152,790*l.*) was levied within the year, and this for two years in succession. That was the heaviest taxation that had ever been before or since, while it lasted: but the case was altogether exceptional, and in the two years which followed, only half the amount was paid—which was then the ordinary rate. After this followed seven consecutive years in which they had had to pay a whole subsidy each year; 141,000*l.* being the average of the first three, and 134,471*l.* the average of the last four.[2] Since which time the sums annually received by the Government on account of the Fifteenths and Subsidies of the Laity, had been as follows:—

	£
In 1605–6	29,539
1606–7	99,005
1607–8	126,560
1608–9	81,763
1609–10	76,899[3]

Such being the experiences of taxation then fresh in memory, the "matter of content" which the members of the Lower House had to carry down to their constituents in the country was that, in consideration of being relieved from certain burdens the value of which in money was estimated at 80,000*l.* per annum, they were to be burdened thenceforth with a perpetual tax of 200,000*l.*, to be secured to the Crown "by Act of Parliament in as strong sort as could be devised:"[4] which would be much the same thing as paying a whole

[1] L. J., p. 662.

[2] These figures are inferred from the table given at p. 149 (which states the value of the subsidy at each period) compared with the several subsidy Acts, (which give the times at which the several payments became due).

[3] Gardiner, ii. p. 414.

[4] L. J., p. 662.

subsidy every year, Parliament or no Parliament, with the addition of such subsidies as every Parliament would thereafter have to grant as the price and condition of being continued. For if without Parliament the Crown was to be assured of a larger annual income than it had ever had yet in times of peace, and almost as large as it had ever had for many years together in times of war, it would always be able to settle a dispute by a dissolution.

And if this was to be their position and prospect with regard to taxation, what would be their position and prospect with regard to Grievances? The fate of the Grievances—I do not say under which the people were then groaning, because I do not know that anybody groaned; but for the redress of which the House of Commons had just been petitioning,—could not fail to suggest the answer. Except in the matter of Impositions, the Government, though it promised to use its authority justly, did not talk of *parting* with any authority. Suppose any of the powers which it retained should be abused; suppose the favourite preacher should be silenced, the parish church left without a minister, fines illegally exacted, penalties imposed by Proclamations and enforced by the Star Chamber;—what was to be done? They could petition again; and if their petition produced no effect, they could refuse to grant any *additional* supply. But as they would not be able to suspend the 200,000*l.* per annum which was now to be made certain and perpetual, the refusal could be borne. They could pass Acts, and send them to the Upper House. But if those Acts were rejected, or returned with amendments, what could they do more? It seems to me that a member trying to explain to "one of the better sort" how, upon "the view of those things which in lieu of that sum they should receive from his Majesty," they had reason to rejoice in the bargain, must have had a hard task before him; and if we find that after three months spent in discussing the merits of the bargain with those whom it most concerned, members came back less in love with it, the fact will not be thought to need any curious explanation.

CHAPTER VI.

A.D. 1610. JULY–DECEMBER. ÆTAT. 50.

1.

THAT I might not interrupt the history of the business in Parliament, I passed over a letter written by Bacon during the Easter recess, which will require a few words of explanation, and now that we have reached the long vacation may be more conveniently discussed.

Camden's 'Annals of Queen Elizabeth' were not published till 1615; when the first three books appeared. But we know from memoranda on the blank leaves of the original copy that the whole work had been completed in manuscript before the end of 1613, when he was engaged in revising it.[1] We know from a letter written by De Thou to Camden at Easter in that year that two several portions of it had already at two several times been sent to him by command of King James—apparently a good while before. We learn from a letter of Chamberlain's to Carleton, dated 29 Jan. 1611–12, as a piece of fresh news, that a "good part of Queen Elizabeth's life, collected with the help of Sir Robert Cotton and written by Mr. Clarencieux" had not long before been sent into France "for a present to Thuanus, to be inserted into his work."[2] And as we know upon Camden's own authority that he had begun to "digest" his Annals in 1608,[3] there is no difficulty in supposing that before Easter 1610 the first part was complete in manuscript and in a condition to be submitted to the King.

But Camden's name appears to have been at this time, for some reason or other, suppressed. Sir Robert Cotton had had a helping hand in the work: it was he who had been in communication with the King about it: and being a man of higher reputation in matters of civil history, he was naturally supposed perhaps to be the author.[4]

[1] Cott. MSS. Faust. F. I.–IV. [2] S. P. Dom. James I. Vol. 68, No. 35.
[3] "1608. Annales digerere cœpi." Camdeni Epist., Addenda, p. 85.
[4] "Ad commentarios D. Cottoni quod attinet, scito duabus vicibus eos ad me jussu serenissimi Regis missos, qui res vestras pertexunt usque ad annum præteriti

These things considered, the history of the following letter (which must be gathered from itself) will be sufficiently intelligible. Cotton had lent Bacon a copy of the first part of Camden's manuscript, that it might have the benefit of his criticisms and suggestions; and had lately, I suppose, sent to ask for it again, as he was going to carry a copy to the King. This is the letter with which Bacon returned the manuscript:—the original letter, preserved among Cotton's own collections, and now in the British Museum.

To Sir Robert Cotton.[1]

Sir,

You may think the occasion was great and present, that made me defer a thing I took much to heart so long: I have in the blank leaf supplied some clauses, which, warranted by your kind respect and liberty, I wish were inserted for my father's honour, as a son, I confess; but yet no furder than I have the two great champions, both truth and opinion, of my side. They be but three places, and that you may readily find them I have turned down leaves; desiring you to reform the Latin or the sense by your better style and conceit; which done, if it please you (being but three pages) to have them written again, and so incorporate them into the copy you carry to the King, you shall content me much; who I think am no unfit man to give you some contribution or retribution to your worthy intention. So in haste I remain

Your assured friend,

Fr. Bacon.

Gray's Inn
this 7th of April 1610.

If Cotton adopted Bacon's suggestion and had the three pages cancelled and written out fair with the proposed additions, it would account for the absence of all traces of Bacon's handwriting upon the original copies. But as it is not likely that so much trouble would be taken with any copy except that which was to be sent to the King, we might expect to find the clauses in question appearing as insertions in the margin or blank page of some other copy. Now in MS. Faust. F. IV. (which is described in a note by Cotton himself as "the

sæculi LXXXII. . . . In iis te præcipuam partem vindicare tunc nesciebam. . . . E *Villabonio* nostro per ferias Paschales rebus prolatis A. C. MDCXIII." Jac. Aug. Thuanus V. C. Gul. Camdeno S. D. (Ibid. p. 139.)

[1] Cott. MSS. Jul. C. III. f. 11. Original: own hand.

first copy, after mended") I find, among other marginal insertions, the three following which have reference to Sir Nicholas Bacon, and may possibly be the clauses which Francis supplied.

1. At page 8, the list of the persons whom Elizabeth on first coming to the throne chose to be of her Privy Council ended (as the manuscript originally stood) with the words "paulloque post, Nicholaum Baconum."[1] In the margin the following clause is directed to be inserted after "Baconum."

"Cui custodiam magni sigilli commisit; virum consilio et dicendi gravitate præstantem, quique cum Cecilio affinitate conjunctus et sententiis concors, magni rebus gerendis in novo regno momenti fuit."

But a line is drawn through the words after "quique," and they are not found in any of the printed copies.

2. At p. 14, speaking of the first act of Elizabeth's first Parliament, in which she was declared Queen, as being "justly and lawfully issued from the blood royal, according to the order of succession prescribed by the estates of the realm in the 35th year of Henry the Eighth," and observing that "the statute wherein her father had excluded her and Queen Mary from the succession of the Crown was nevertheless not repealed," Camden had added—"wherein Bacon's wisdom (upon whom as the oracle of the law the Queen wholly relied in such matters) in some men's opinion failed him; especially considering that Northumberland had objected it against Queen Mary and her (and in that respect Queen Mary had repealed it as far as concerned herself), and some seditious persons afterwards took occasion thereby to attempt dangerous matters against her, as being not lawful Queen; albeit that the English laws have long since pronounced 'That the crown once worn taketh away all defects whatsoever.'" And there the first copy stopped.

After the words "defectus tollere" the following passage is inserted in another hand.[2]

"Ab aliis autem hoc ipsum prudentiæ Baconi dabatur, qui in tantâ legum atque actorum perplexitate et inconstantiâ, cum quæ pro Elizabethâ facerent cum ignominiâ et probro Mariæ conjuncta forent, ulcus vetustate obductum refricare noluit, sed quibusdam verbis ad honorem Elizabethæ prælibatis, ad eam demum se applicuerit legem, scilicet de quâ diximus, anno 35 Henrici latam, quæ utriusque famæ et dignitati quodammodo æqua fuit."

"By others however that very thing was imputed to Bacon's wisdom; who in such perplexity and inconsistency of laws and acts, finding that the things which made for Elizabeth were joined with ignominy and reproach of Mary, was unwilling to rub up again a

[1] See Hearne's edition, p. 27. [2] Ibid. p. 34.

sore that had skinned over with age; but preferred rather, after some words premised in honour of Elizabeth, to fall back upon the law above mentioned—a law passed in the 35th year of Henry, which did equal justice in a manner to the fame and dignity of both."

3. The third and only remaining clause which I noticed in this manuscript as being at once an interlineation and a passage bearing upon the character of Sir Nicholas Bacon, relates to the abortive conference at Westminster on the 31st of March, 1559, between the Papists and Protestants, at which he presided as moderator; and which was broken off because the Papists objected to the order of proceeding, and he would not allow it to be altered. Camden had represented the Papists as complaining that they had been hardly used, both because they had had only a day or two's notice of the questions to be discussed, and because Bacon, a man little versed in theology and a great enemy of the Papists, presided as judge: whereas (Camden added) he was appointed only to keep order. After which words, the following clause (written in the margin in Camden's own hand) is marked for insertion.

"Sed quod verissimum, illi rem serius perpendentes non ausi sunt Pontifice Romano inconsulto res tantas, et in ecclesiâ Romanâ minime controversas, in quæstionem vocare."

"But the real truth was that when they came to consider the matter more carefully they did not dare to call in question things of such importance and about which in the Church of Rome there is no controversy at all, without first consulting the Pope." (Implying that their complaint of Bacon's conduct as moderator was a mere pretext, and that their objection to the order of proceeding was invented for the purpose of putting an end to the conference.)

2.

This belonged to the Easter recess; when "contribution and retribution" were the words most familiar to the ears of all Parliament men.

Of the fruits of the long vacation we have no particular account: for it does not happen that any of Bacon's literary or philosophical works can be identified as works of that summer. Two or three letters are all the records that remain.

The first is a piece of official business; intelligible enough, and not without value as a sample of that kind of work; though the subject does not (so far as I know) possess any historical interest.

To the right hon^ble Sir Julius Cæsar, Knight, Chancellor of his Mat^y's Exchequer.[1]

It may please your Honour, in answer of your letter of the 2nd of this present, but not delivered to my hands till the 20th thereof, concerning Sir Robert Steward his petition exhibited to his Majesty in the name of Edward Williams, for the new founding of the Hospital of St. John's in the town of Bedford; I have examined the state of the cause, as far as information may be expected by hearing the one side; and do find; that this Hospital passed divers years since by a Patent of Concealment to Farneham from whom the petitioner claimeth: that thereupon suit was commenced in the Exchequer, wherein it seemeth the Court found that strength in the King's title, as it did order the Hospital should receive a new foundation, together with divers good articles of establishment of the good uses, and an allowance of stipend unto the Master. Nevertheless I find not this order to be absolute or merely judicial; but in the nature of a composition or agreement; and yet that but conditional; for it directeth a course of judicial proceeding, in case the defendants shall not hold themselves to the agreement. And yet notwithstanding this order had this life and pursuance, as I find a letter of the Lord Treasurer his Lordship's father to the then Attorney, for drawing up a book for the new foundation. After which time, nothing was done for aught that to me appeareth; no patent under seal, no stirring of the possession, no later order: neither doth it appear unto me likewise in whose default the falling off was. But now of late some four years past and about fourteen years after the former order, upon information given of the King's right to the late Lord Treasurer, Earl of Dorset, his Lordship directed a sequestration of the possession, and that without any mention of these former proceedings; but that being as it seemeth swiftly granted, was soon after by his Lordship revoked. The pretenders unto the right of this Hospital (with whom likewise the possession hath gone) are as it seemeth the Master of the Hospital (at this time one Dennis) and the town of Bedford, who claim the patronage of it. But in what state the Hospital is for repair or for employment, according unto the good uses, or for government, I can ground no certificate. And

[1] S. P. Dom. James I., vol. 57, no. 26. orig.

therefore it may please you to signify unto his Lordship, as well the state of the cause heretofore opened, as my opinion; which is, that it were great pity that this Hospital should continue either not well founded or not well employed, the rather being situate in so populous and poor a town; and that nevertheless herein some consideration may be had of the patentee's right: but for the present that which is at first meet to be done I conceive to be, that the other party be heard; and to the end to avoid a tedious suit (which must be defended with the monies that should go to the sustenance of the poor) his Lordship may be graciously pleased to direct his letters as well to the town of Bedford as to the present Incumbent, that they do attend a summary hearing of this cause; (if his own great business will not permit) before some other that he shall assign: in which letters it would be expressed that they come provided to make defence and answer to three points: that is, the King's title now in the Patentee, the order and agreement in the Exchequer, why it was not performed; and the estate of the Hospital, whether it be decayed and misemployed.

And so I leave to trouble your Honour, from Gray's Inn, 23rd August, 1610.

Your Honour's to do you service.

FR. BACON.

3.

The next letter reveals an interesting and unexpected fact, which though the evidence has been before the world in Mr. Montagu's edition of Bacon since 1830, has remained hitherto, so far as I am aware, unnoticed.

We learn from it that till nearly the end of August 1610 Bacon's mother was still living. We have heard nothing of her since the Spring of 1600, and then only that her "health was worn:"[1] and the silence about her is so complete that it has been supposed that she died soon after.[2] That we have no *letters* of later date from her or to her, is indeed not surprising. Those of earlier date, of which we have such a great number in the Lambeth collection, would probably never have been heard of but for Anthony Bacon's habit of keeping all his correspondence without distinction, and consequently leaving behind him so many bundles of imperfectly arranged papers, the valuable and the worthless mixed confusedly together, that they

[1] See Vol. II. p. 166.

[2] Biogr. Britan.

were probably never either sorted or examined during his brother's life. Any correspondence which passed afterwards with her or about her would naturally be kept separate, and so destroyed or lost all together. But though the disappearance of all *letters* is easily accounted for, the absence of all casual *mention* of her, through so many years, is not so: especially in such a thing as the *Commentarius Solutus*, where if she had been still living in the enjoyment of her dower, either at Gorhambury or elsewhere, the very inventory of the estate could not have been complete without reference to her. The fact that there is not a single allusion to her throughout that note-book would certainly, but for the evidence of the next letter, have satisfied me that she died before the date of it; and (the evidence of the next letter proving conclusively that she was still alive) we are left to account for it as we can. The supposition which seems to me most probable is that she lost the command of her faculties some years before her death, that the management of her affairs was taken out of her hands, and that somebody was employed to take care of her. There are symptoms in her earlier correspondence of an excitement and irritability which might easily end in that way; and if it did, the silence would be accounted for. The only allusion to her later years which I have met with is in Bishop Goodman's 'Court of King James the First,' and is in these words:— "But for Bacon's mother, she was but little better than frantic in her age."[1] There were times between 1593 and 1597 when almost the same thing might have been said of her. But if her frantic moods took the same form and became more frequent, it is hard to imagine how they could have escaped all notice. It seems more likely that the morbid irritability was the precursor of decay, and that she grew helpless as she grew older. Her exact age I have not been able to learn, but she was the second of five daughters, and her eldest sister would have been 87 if she had lived: so that we may presume she was above 80.[2]

To Sir Michael Hicks.[3]

Sir Michael Hicks,

It is but a wish and not any ways to desire it to your trouble. But I heartily wish I had your company here at my Mother's funeral which I purpose on Thursday next in the fore-

[1] Vol. I. p. 285.

[2] She had four brothers, but the biographical books do not say in what order they came.

[3] Lansd. MSS. XCI. fo. 183. Orig. own hand, docketed "27 Aug. 1610. Sr Fra. Bacon."

noon. I dare promise you a good sermon to be made by Mr. Fenton the preacher of Gray's Inn; for he never maketh other. Feast I make none. But if I mought have your company for two or three days at my house I should pass over this mournful occasion with more comfort. If your son had continued at St Julian's it mought have been an adamant to have drawn you: but now if you come I must say it is only for my sake. I commend myself to my Lady, and commend my wife to you both, and rest

Yours ever assured

FR. BACON.

This Monday the
the 27th of August 1610.

4.

In my preface to 'The beginning of the History of Great Britain,'[1] I gave my reasons for supposing that it was written at the end of 1609 or the beginning of the next year. I am now rather inclined to place it a little later, and to regard it as one of the fruits of the summer vacation of 1610. My chief reason for placing it so early was that there seemed to be an allusion to the subject in a letter which I then supposed to have been written in the spring of 1610; but am now inclined to place in January or February, 1611. If we suppose that the reading of Camden's 'Annals of Q. Elizabeth,' and the interest the King was taking in them about Easter 1610, put into Bacon's head the notion of writing a history of the present reign, the next vacation would be the likeliest time for beginning it; and the letter which accompanied the sample will find its fittest place here. What the King thought of it is not known: but as Bacon never went on with it any further, I suppose he did not meet with much encouragement. Which was a pity.

A LETTER TO THE KING, UPON THE SENDING UNTO HIM OF A BEGINNING OF A HISTORY OF HIS MAJESTY'S TIME.[2]

It may please your Majesty,

Hearing that you are at leisure to peruse story, a desire took me to make an experiment what I could do in your Majesty's times. Which being but a leaf or two, I pray your pardon if I send it for your recreation, considering that love

[1] Lit. and Prof. Works, I. p. 275. [2] Addl. MSS. 5503. f. 27. b.

must creep where it cannot go. But to this I add these petitions. First, that if your Majesty do dislike any thing, you would conceive I can amend it upon your least beck. Next, if I have not spoken of your Majesty encomiastically, your Majesty will be pleased only to ascribe it to the law of an history, which doth not clutter together praises upon the first mention of a name, but rather disperseth and weaveth them throughout the whole narration, and as for the proper place of a commemoration (which is in the period of life) I pray God I may never live to write it. Thirdly, that the reason why I presumed to think of this oblation, was because, whatsoever my disability be, yet I shall have that advantage which (almost) no writer of history hath had; in that I shall write of times not only since I could remember, but since I could observe. And lastly, that it is only for your Majesty's reading.

5.

Among the grievances included in the Petition of the House of Commons, one was the abuse of Royal Proclamations: where, by forbidding people to do certain things, under penalties which could be enforced by the Star Chamber, the Crown did in fact assume a power of penal legislation. The particular proclamations to which exception was taken as containing clauses open to this objection were, one relating to the election of Knights and Burgesses,[1] four to building,[2] two to the manufacture of starch,[3] and one to the folding of wools.[4] To this article the King's answer was, "if sithence the beginning of our reign Proclamations have been more frequent than in former times, or have extended further than is warranted by Law, we take in good part to be informed thereof by our loving subjects, and take it to heart as a matter of great consequence, and therefore we will have conference with our Privy Council, and with our Judges and Learned Counsel, and will cause such our Proclamations as are past to be reformed, where cause shall be found; and for future time will provide that none be made but such as shall stand with the former laws or statutes of the kingdom, and such as in cases of necessity our Progenitors have by their Prerogative Royal used in times of the best and happiest government of this kingdom."[5]

[1] 11 Jan. 1603–4.
[2] 16 Sep. 1603.
1 March 1603–4.
12 Oct. 1607.
25 July 1608.
[3] 23 Aug. 1607.
5 July 1608.
[4] 18 June 1604.
[5] L. J. p. 659.

This answer was delivered on the 23rd of July, immediately before the prorogation; at which time Sir Edward Coke was absent on his circuit. On the 20th of September, about a month before Parliament was to meet again, he was sent for to attend the Council, and question was raised as to the legality of two of the Proclamations which had been complained of. One related to new buildings in and about London, the other to the making of starch with wheat; in both which cases restrictions and regulations had been imposed, with threat of punishment to all who should transgress them. The object in both cases was public policy, but the policy was not the question. The question was whether such restrictions and regulations could be imposed and enforced at the discretion and by the authority of the Crown alone, without Parliament. And it seems by Coke's account[1] that the Lord Chancellor—the highest legal officer in the kingdom, and one whom James found in the place, and naturally relied upon in such matters—was of opinion that it was a power which the King either had or ought to have; and that if it could not be justified by any former precedent, it was fit that a precedent should now, with the concurrence of the Judges, be made.

Bacon was present at the conference, along with the Attorney and the Recorder, and took a part in it: but since he is not mentioned as saying anything in support of the Lord Chancellor's opinion, I conclude that he remained silent; until, upon Coke's desiring time for consideration and conference with the other Judges before he gave his answer, he took occasion to remind him that the question was not altogether new to him: "Divers sentences had been given in the Star Chamber upon the Proclamation against Building: and he had himself given sentence in divers cases for the said Proclamation:" a fact which Coke does not seem to have been able to contradict; and which as an *argumentum ad hominem* he could not but allow to be pertinent. If he had himself given sentence against offenders charged with disobeying the Proclamation, he must have been of opinion that such disobedience was an offence legally punishable. But though he might not be able to clear himself of having sanctioned the opinion by implication, it did not follow that it was a sound one. It was better (he said) to go back than to go on in the wrong way. A question of great consequence had been put to him: before he answered it, he desired time to examine precedents and confer with his brethren. A desire so reasonable could not be refused, and the inquiry ended in a resolution "by the two Chief Justices, Chief Baron, and Baron Altham, upon conference betwixt the Lords of the Privy Council and them, that the King by his Procla-

[1] Rep. Part XII. p. 74.

mation cannot create any offence which was not an offence before . . . that he has no prerogative but that which the law of the land allows him . . . and that if the offence be not punishable in the Star Chamber, the prohibition of it by proclamation cannot make it punishable there."[1]

So far, the King had made good his promise to confer with the Judges; and the result of the conference had been clearly in favour of the view maintained in the petition of Grievances. It remained only to make good the rest, by reforming such past proclamations as were inconsistent with this resolution, and providing that no more such be issued. Accordingly on the 24th of September 1610, a proclamation was put forth "signifying his Majesty's pleasure touching some former Proclamations:" by which a considerable number (including, I think, all those specified in the Petition) were withdrawn. And for the future, we have it on Coke's own authority that "after this resolution no proclamation imposing fine and imprisonment was afterwards made."[2]

Upon this article therefore of their petition the King was prepared to meet the Commons with a clear concession; a much better thing for present purposes than the most conclusive justification would have been.

6.

Nevertheless the three months' consideration and discussion in the country of the terms of the Great Contract had not tended to smooth its way with either party. And though it might seem that an arrangement so advantageous to the Crown should have had all the help which the Court party could give, this does not appear to have been the case. Take the figures as given in the Journals of the House of Commons, and it seems impossible to doubt that as a financial arrangement the Crown would receive by it a great deal more than it gave; and would be made more independent of Parliament than it had ever been before, or was ever likely to be as long as old precedents were held sacred. But the Commons would naturally incline to abate the price of that which they were going to buy; and in estimating the revenue derived from Wardships and Purveyance at 80,000*l.*, it is likely enough that they undervalued it. Another calculation, attributed to no less a man than Sir Julius Cæsar, then Chancellor of the Exchequer and in close alliance with Salisbury, estimates the rights to be parted with as worth 115,000*l.* a year as then administered, and as capable of improvements which would yield 85,000*l.* a year more.[3] Now if in exchange for the 200,000*l.*

[1] Coke. Rep. XIII. p. 76.
[2] Rep. XII. p. 76.
[3] Parl. Deb., 1610, Appendix D.

yearly support the Crown was to give up 115,000*l.* a year in *esse*, and 85,000*l.* a year in *posse*, together with the authority, influence, and reputation which went along with the existing tenures, and at the same time all hope of occasional assistance from Parliament: — if a man so well informed on such matters as the Chancellor of the Exchequer could make it appear by figures that the King was in fact giving up of his own the full equivalent in money of that which he was bargaining to receive, and a good deal more in money's worth, and that his present necessities would remain unrelieved,—it could not have been difficult to distaste him with the proposed arrangement. And there were many about him who from principle or interest would naturally labour to deter him from concluding it. What the people were to gain by the remission of these dues of the Crown was what the middlemen through whom they were collected had to lose. The whole host of suitors, high and low, would be interested against the change. And if there were not also many most respectable and disinterested persons who saw in the abandonment of immemorial customs the ruin of the constitution of which they had been the bulwarks, the gentlemen of England must have undergone a greater change since James's time than nature seems ever to permit in the same race and climate. It is true that the House of Lords, so far as we can gather their proceedings from the Journals, supported Salisbury throughout with unanimity: "the little beagle had run a true and perfect scent which brought the rest of the great hounds to a perfect tune."[2] But the loyalty which forbade them publicly to obstruct a policy which the King had been persuaded publicly to adopt, could not prevent them from secretly disliking and deploring, and privately warning the King against it. It was reported about this time that Salisbury was falling out of favour, and (though rumours to that effect would naturally be suggested by the rise of Carr, and might have no other ground) I am inclined to believe from Bishop Goodman's remarks upon what he calls his "fall," that there was some truth in it.

"The true cause of his fall" (says the Bishop) "was this:—a great peer of the kingdom lying upon his death-bed sent the King word he

[1] "I am persuaded that after this contract passed, the King may undoubtedly resolve to receive no more subsidies or fifteenths from his subjects in time of peace. For that is parcel of their groundwork, whereupon they are proposed to win their countries' consent to this contract; for neither shall the King need it, as they pretend, having that yearly portion from them, neither will their countries be able to furnish any more than that 200,000*l.* a year." Dialogue on the Great Contract (Lansd. MSS. 151, f. 128 a) supposed to be written by Sir Jul. Cæsar: printed in *Parl. Deb.* 1610, *App. D.*

[2] Sir Roger Aston to Lord —. S. P. Dom. James I., vol. 56, no. 42.

was desirous to speak with him. The King, as his manner was, desiring that no notice might be taken of his coming, sent the Earl of Dunbar to visit the sick man, excusing himself for not coming, and desiring him to impart to the Earl what he would speak unto him, and he would take it very kindly. Here the sick man did express great affection and duty to the King, and desired him not to lose any part of his prerogative, especially the Court of Wards and other great royalties which his predecessors had, for if he should part with these he should hardly be able to govern; that the subject was more obedient and did observe the King more for these than for any other laws or other respects whatsoever; that the subject was bound to relieve him and to supply his occasions without any such contractings; and therefore he did desire him, for the necessary support of his own government, not to put his lands unto fee-farms; and whereas at this time some did endeavour to engross and monopolise the King, and kept other able men out of his service, that the King, as God had blessed him with wisdom and judgment, would take such able men into his service as might from time to time be faithful to him and to his successors. When the Earl of Dunbar had delivered this message to the King, the King wished that, if it might stand with God's will [that] he were 10,000*l.* in debt to save his life; and ever after the Earl of Salisbury, who had been a great stirrer in that business, and was the man aimed at, began to decline."[1]

Who this dying peer may have been I do not know, nor how much credit may be due to Bishop Goodman's report. But I have little doubt that there were many people who took this view of the question, and that it was one which would find easy entrance into the King's mind. Now if the King feared that the Contract would deliver him bound into the hands of the people, and the people feared that it would deliver them bound into the hands of the King, and Salisbury foresaw that instead of establishing him in the King's favour it would discredit and defeat him, it is easy to understand why (in spite of the formal acceptance of it in substance by the two Houses) the chances were against its being carried through. If all parties had been eager to conclude it, the difficulties would have been great: for they had still to agree upon the manner of raising the money and upon the securities for performance of the contract on either side.[2] If all were afraid of it, it was sure to break upon one or other of those difficulties.

The Houses met again on the 16th of October according to the

[1] Court of K. James, vol. i. p. 40.

[2] "The manner of the levy and the assurance are likewise put off till next meeting, without so much as any course taken to be more ready in them in this time of vacation: which is thought somewhat a preposterous order, to promise money and not to consider how or where to have it." Carleton to Edmunds, July 25, 1610.

order, and if their feeling with regard to the Contract had been the same as when they exchanged memorials in July, they had only to go on with it. It seems, however, as if neither party had been disposed to take the first step. What was *said* on the subject in either House we have no means of knowing, for the Journals of the Lords give no notes of the debates, the Journals of the Commons for that session have been lost, and the private Journal discovered by Mr. Gardiner contains no notice of what passed during the first fortnight. But more than a week had gone by without anything *done* by either, when the Lords invited the Commons to a Conference. What happened at that Conference (which took place on the 25th of October) we do not know. We know only that the next act of the Commons was to send for a true copy of the King's answer to their petition of Grievances; and that their entertainment of the question was so dubious or so dilatory that the King thought it necessary to expostulate with them, and require a "resolute and speedy answer, whether they would proceed with the Contract, yea or no."[1]

The note which remains of the proceedings that followed, though it is but a scrap, enables us to understand where the difficulty really lay, and why the Contract, having advanced so far, could advance no further. Both parties, when they came to look at it close, were afraid of it. The Commons felt that if they made the Crown independent of Parliament, they could have no security for what they were to get. The King felt that unless his debt were once fairly cleared off, the Commons would still have a hold upon him, by means of which they might bring him to a worse condition than he had been in before. Neither party durst risk it, unless it were guarded with conditions which the other durst not accept.

It was on Wednesday, the last of October, that the King had spoken to them and asked for their "resolute and speedy answer." The tone of his speech almost invited them to answer no. "He should be beholden unto them," (he said) "though they did deny to proceed; because then he might resolve upon some other course to be taken for the supply of his wants; for he said he was resolved to cut his coat according to his cloth, which he could not do till he knew what cloth he should have to make it of."[2]

Though no particulars have been preserved of the debate which followed, we may presume that it ended in the appointment of a Committee to prepare the answer; and that they brought up their report on Saturday; when a discussion took place of which we have the following note.

[1] Parl. Deb. 1610, p. 126. [2] Ibid.

3 *November* 1610.

An answer to the King framed and offered by Sir Maurice Berkley, which being read was disliked as too ceremonious and complimentical, and not real and actual. The answer was to excuse our slowness by want of competent number. And that if our demands be granted, and no more shall be imposed upon the land, his Majesty shall perceive that we now are as constant to persevere with the contract as we were forward to undertake it.

The objection taken by the House to the proposed answer was the more significant, because Sir Maurice Berkley was not an adherent of the Court, but one of the leaders of the popular party. What their idea of a "real and actual" answer was, may be gathered from the notes of a speech by Sir Roger Owen—the only speech delivered that day of which any record remains.

Divers things to be provided for, otherwise he was unwilling the contract should proceed.

1. Our security to be provided for by a full answer to our grievances. No gap to be left open for the King to impose upon his subjects.

2. Means to levy it to be such as it may be least burdensome to the subject.

3. Provision to be made that this 200,000*l.* be not doubled nor trebled by enhancing of the coin by the King.

4. Provision that the explanation of doubts may be by Parliament; and that we may have Parliaments hereafter though the King's wants be fully supplied. . . .

5. Provision that this 200,000*l.* per annum may not be alienated from the Crown.

As nothing is said of any final resolution I conclude that the debate was adjourned till Monday. But the tone of the discussion having sufficiently indicated what he had to expect from them, the King took occasion in the meantime to remind them of what they were to expect from him. And when they met on Monday the Speaker had a message to communicate which quite altered the case.

5 *November.*

A message from His Majesty by the Speaker.

His Majesty, having by speech in person, upon just and apparent reasons drawn from his necessities, required our resolution concerning the contract, thinks fit to omit nothing that may further our proceeding without mistaking, etc. or loss of time.

He is pleased to represent unto us the clear mirror of his heart, and to set before us the essential parts of the contract, lest the taking of things by parts might induce any oblivion or distraction in the contemplation of the whole.

1. He declareth that it never was his intention, much less his agreement, to proceed finally with the contract, except he might have as well supply as support, to disengage himself from his debts. In reason his debts must be first paid.

His first demand [was] for the supply of his wants; and after the point of tenures and the distinction of support and supply came in by our motion.

For his supply he expected to receive 500,000*l.* though it will be less than will pay his debts and set him clear.

The Subsidy and 15th last given not to be taken as part of that sum, by reason of his great charges since for the safety and honour of the State, and the increase of his wants.

He desireth to know our meanings clearly what we mean to do in the supply.

2. Upon what natures the support may be raised. His purpose is that it may be certain, firm, and stable, without the meaner sort, and without diminution of his present profit.

The recompense of the present officers to proceed from us, but not from his Majesty—which is no great matter, considering it depends upon their lives, and that it is not warranted by the clause which gives us power to add or diminish, because it takes profit from his Majesty.

And therefore he expects 200,000*l.* *de claro*, &c.[1]

If they were in doubt before whether to proceed with the Contract or not, they could be in no doubt after the delivery of this message. Nor could the King himself, I think, have expected or intended it to have any other effect than that of hastening the resolution to give the Contract up. He knew that his original demand of 600,000*l.* supply and 200,000*l.* annual support (in addition to the estimated annual value in money of the proposed concessions) had been peremptorily declined, and that when it was insisted on the negotiation had been broken off distinctly upon that ground. He knew also that the Commons had only been tempted to take it up again by an offer from the Government of more favourable terms: and he knew that those terms contained no allusion whatever to any demand for Supply. If he believed that when he authorised Salisbury to say that he would take 200,000*l.* in exchange for the specified concessions, it was understood that his debts would be paid off at the same time, he must have been deceived by his ministers. It is impossible to suppose that so large an item could be understood to form part of the bargain and not mentioned in the memorial. It may be however that Salisbury had got leave to make that offer by persuading him that Supply would follow: that at present disputes about the Contract and excitement about Grievances interfered with Subsidies: but that if the Commons were gratified with a gracious answer in

[1] Parl. Deb. 1610, pp. 126–8. Addl. MSS. 4210, fo. 90 b.

the one case and a good bargain, or what they took for such, in the other, they would be in a more liberal humour and would feel the propriety of paying off his debts. And it may be that when he saw that hope in danger of disappointment, he resolved to make sure of one thing or the other,—either to be free of the Contract or to have it coupled with a grant of 500,000*l.*

It is impossible to say who was answerable for the shifting and inconstant proceeding of the Government throughout this transaction. It may be that the King shrank, when it came to the point, from a policy which he had been persuaded to sanction. It may be that Salisbury offered, or pretended to offer, more than he had authority to do. It may be that the negotiation was set on foot with a view to some other end, and was meant to break when it had served its purpose. What is certain is that the proceeding on the part of the Government was both indirect and inconsistent from beginning to end; and that the final breach was distinctly their choice and act. The Commons on the other hand acted throughout openly, honestly, consistently and liberally; and with no more circumspection than the case required. And though, if the negotiation had proceeded, it would probably have broken upon some demand of theirs which they could not in prudence have foregone and the King could not in prudence have allowed, it is clear that, as it was, the responsibility for the breach did not at all lie with them. An unanimous resolution not to proceed with the contract upon these conditions[1] was the inevitable result of the last communication: and after a day or two of deliberation the following answer was agreed upon.

"Nevertheless, having entered into due consideration of the whole business, and that with as great deliberation as your Majesty's desire touching a speedy answer could permit, we have resolved that we cannot proceed in the contract according to your Majesty's last declaration delivered by our Speaker: which our answer we hope shall in no wise offend your Majesty."[2]

That an answer to this effect was expected by the King may be inferred from the tone of his reply, which is thus given in Mr. Gardiner's manuscript.

"To this his Majesty sent an answer by the Speaker on Wednesday 14 Nov. that sith we could not proceed according to his last declaration,

[1] Parl. Deb. 1610, p. 131.
[2] S. P. Dom. James I., lviii. 10. Docketed by Sir Julius Cæsar, "Answer to the Ks message touching the Great Contract. Received 9 Nov. 1610."

which was agreeable to his first intention, he did not see how we should go further in that business."[1]

7.

So ended the great project, from which so much had been promised and hoped, leaving all parties in a worse humour than before. But so did *not* end the great political difficulty which it had been invented to overcome. That difficulty was as great as ever, and now more than ever intractable. The debt of the Crown had increased, the expenditure had not been reduced, the inducements which had been held out to the Commons in the hope of obtaining from them a contribution adequate to the emergency, having proved insufficient, had been withdrawn, and the problem of November was the same as the problem of February, with all its difficulties aggravated. The contract being abandoned as a failure, there was nothing left but an appeal to the House of Commons in the ordinary way, with an offer of popular benefits, and a representation of the need of supplies. But after all that had passed it was no easy matter to make such an appeal other than a very flat affair. The need of supply had been matter of notoriety for the last nine months, and all the particulars had been disclosed and discussed. And the longest list of benefits that could be offered to the people, could not but seem poor by the side of those with the promise of which they had been so long tantalized, and by the sudden withdrawal of which they had been so recently surprised and disappointed. But no other course was left: and on the same day on which the King declared the contract at an end, the Commons by invitation met the Lords in conference, to hear some new proposition.

The new plan of operation appears to have been this. The Lords were to invite the Commons to join them in petitioning the King for certain measures of relief to the people; which being promised, it was hoped that they would see the expediency of relieving the King's wants. The Conference was opened by Salisbury in a speech which was reported to the House by Bacon, and of which Mr. Gardiner's manuscript gives us the following note.

Lord Treasurer's speech consisted of two parts: 1. part of form and 2. part of matter.

1. Part of form: to avoid a scruple, lest we should conceive it as a message from the King.

2. Matter divided into three parts.

[1] Parl. Deb. 1610, p. 131.

1. A delineation of the proceedings formerly.
2. A representation how things are now left.
3. A conclusion with certain motions.

[1.] The King, like a skilful archer, hath set up in the view of the Parliament the mark whereat he aimed.

He hath caused his wants to be made known and the cause of his wants, more particularly than experience hath found fit, in respect that the composition of the Parliament was such as what is spoken there cannot possibly be kept secret.

The sacrifice that the King desired was such as Christ appointed to be offered, a pair of doves, *sine gemitu*, and not like the sacrifice in the law, with struggling and resistance, and therefore he made offer of retribution to his subjects.

But these are refused by us, not (as he was persuaded) for want of willingness in the King to perform what he had offered, or of affection in the subjects; but diffidence and distrusts and fears, and distractions in opinion, like Jonathan's arrows, some shot over, some under, and yet all with a good mind.

2. The King now 50,000*l.* worse than he was at the beginning of the Parliament.

3. Motions. The Lords had taken into consideration *corpus cum causâ*, his wants and the cause thereof. They were all of opinion that it is not safe to leave him unsupplied.

They did appoint him to acquaint us with some things which they wished that both Houses would join in petition for them to his Majesty, for the ease and good of his subjects.

He said he would not have the King to think that when wants are voluntary, supplies must be of necessity; and therefore those difficulties which have been used herein may procure some good effect in his Majesty: which he did not doubt of; assuring himself that he would be very careful hereafter how he pressed his subjects. And yet if he did, he was far from the opinion of the Jesuits that "*arma nostræ militiæ*" are "*solum preces et lacrymæ.*"[1]

For his part his hope and comfort was that he should never sit in that place to use so many tautologies upon the like occasion, except it were upon some great and apparent cause, wherein we should be as forward as he.

[1] Alluding, I suppose, to a passage in the King's speech on the 21st of May, which had alarmed the Commons.

The things to be desired by both Houses.

1. 60 years possession a bar against the King.
2. No lease to be avoided for defect of security or conditions broken.
3. Upon outlawries the creditor to be first satisfied before the King.
4. Respite of homage to be taken away.
5. Penal laws to be reformed.
6. All obsolete laws to be taken away.
7. Power to make laws in Wales to be repealed.
8. No imposition to be hereafter set but by Parliament, and those that are to be taken as confirmed by Parliament.

Salisbury was followed by Northampton and the Lord Chancellor, who both offered reasons to persuade the Commons to grant supply: but the notes of the reports, made respectively by Sir Dudley Digges and Sir Henry Montagu, contain nothing of importance.

The measures of relief which it was proposed to petition for were (it will be seen) of considerable value; and had such a proposal been made, and made sincerely, at the opening of the previous session before the state of the Exchequer had been laid so bare, and before the reciprocal obligations of Kings and subjects had been put upon the basis of a money bargain, the plan might have been very successful. After such a course of promises, expectations, misunderstandings and disappointments as they had gone through since February, the effect was very different.

Before the question came on for discussion in the Lower House, the King himself tried once more the effect of his own eloquence; not however on this occasion formally addressing himself to the House of Commons, but selecting a few of the principal members and sending for them to speak with him. Of the interview we have the following account from a contemporary letter-writer.

"About fifteen days since, the day before the King went to Royston, his Majesty called thirty of the Parliament House before him at Whitehall, among whom was Sir H. Neville. Where his Majesty said the cause of sending for them was to ask of them some questions, whereunto he desired they would make a direct answer. The first was whether they thought he was in want? according as his Treasurer and Chancellor of Exchequer had informed them. Whereto when Sir Francis Bacon had begun to answer in a more extravagant style than his Majesty did delight to hear, he picked out Sir Henry Neville, commanding him to answer according to his conscience: thereupon Sir Henry Neville did directly

answer to the first, that he thought indeed his Majesty was in want, and that according to the relation of his Council. Then (said the King) tell me whether it belongeth to you that are my subjects to relieve me or not? To this, quoth Sir Harry, I must answer with a distinction: where your Majesty's expense groweth by the Commonwealth we are bound to maintain it, otherwise not: and so continuing his speech, he gave a note that in this one Parliament they had already given four Subsidies and seven fifteenths; which is more than ever was given by any Parliament, at any time, upon any occasion; and yet withal that they had had no relief of their grievances. Then was his Majesty instant to have him declare what their grievances were. To all their grievances (said Sir Harry) I am not privy, but of those that are come to my knowledge I will make recital; and so began to say, that in matter of justice they could not have an indifferent proceeding (aiming perhaps at his Majesty's prerogative, *nullum tempus occurret Regi*); and then falling upon the Jurisdiction of the Marches of Wales, Sir Herbert Croft took the word out of his mouth; otherwise, it was thought, Sir Henry (being charged upon his conscience) would have delivered his judgment in all, in what respect soever it might be taken.[1]

I see no reason to doubt that the King's object in this conversation was really what he said it was,—to clear away misapprehensions on both sides, and come to a better understanding each of the other's views and purposes.[2] Nor was the manner of proceeding injudicious, considered with reference to the immediate object; however unadvisable it may have been, considering the suspicion of illegitimate influence and the alarm for Privilege which it was sure to excite in the body of the House. The present practical result was a formal communication to the Speaker, requiring the House "to forbear for the present any further speech concerning the supply of him or his estate, until they should have heard something from him,—which should be within a few days." Whereupon the House, which appears to have been interrupted by the message in the middle of a debate, was adjourned for a few days; and on its next meeting the following letter—or a letter of which the following is given as the substance—was read.

Wednesday 21 *November.*

A letter from His Majesty to the Speaker, sent from Royston, read in the House, to this purpose:—

Trusty and well-beloved, we greet you well, &c.

First concerning impositions, his final answer is, that he will be con-

[1] John More to Sir R. Winwood, 1 Dec. 1610. Winw. Mem. III. p. 235.

[2] "To confer with them as private men, . . . having no other end nor purpose in this conference but only to make them see how unwilling he would be to suffer anything to be mistaken that may have passed heretofore upon any occasion either out of Parliament or in Parliament from him or them." Address of the Speaker, 17 Nov. S. P. Vol. lviii. 21.

tented to pass an act to restrain him hereafter from imposing upon merchandises, his heirs and successors; but not to take away those that be; otherwise than by leaving them to our consideration to transpose as we think fit, if any be unduly rated, or in lieu of them to raise any other benefit[1] of equal benefit.

2. Prohibitions, and Proclamations, and 4 Shires.

4 Shire, never had any intention to deny justice. He suspends his consideration till the end of Midsummer term next: from which time forward he will leave them to the course of law and justice.[2]

If we had a fuller report of the substance of this letter we should be better able to understand the state of the question which the House had now to consider. We may assume however that the eight articles proposed by Salisbury to be petitioned for by both Houses had been approved by the King, and that the particulars mentioned in this letter were to be taken as in addition or explanation—not in substitution: so that the question would be what amount of subsidy they would be willing to give, upon the assumption that those articles would be conceded. The prognostics were not favourable. The debate which was interrupted by the King's message of the 17th turned entirely upon the question of Supply, and seemed to be tending to a direct negative. The note of a speech by Sir Nathaniel Bacon, (Francis's half-brother), who appears to have been a good commonwealthsman, shows very clearly the view taken by the opposition.

As great reason to deny a supply by reason of the breach of the contract, as there was to break the contract. It was said that both of them should go together. He thinks it not fit to proceed with the supply. His reasons:—

I. Upon the last subsidy there was given to the subject a show of ease of some grievances.

1. The King hath called in the Impositions of Alehouses, which he confesseth some loss to the King, but no less honour to him.

2. The time long ere we shall have benefit by the repeal of the licence of Wines.

3. The Patent of New Drapery is not yet revoked; or, if it shall be, it is said that it will be upon the point of mispleading; so that there shall be no judgment for the right of the subject.

4. The matter of Coal, whereof the imposition is taken away, was not past in benefit 200*l.* per annum; only the coals of Blythe and Sunderland.

These matters offered by the Lords now are not the principal; no matters ecclesiastical, proclamations, or such like. And therefore wished that we would not confer with the Lords.

[1] So MS. Qu. revenue?

[2] Parl. Deb. 1610, p. 137.

II. No precedent that ever several Subsidies were granted in one Parliament, except in this Parliament.

No extraordinary cause. The wants of the King drew on all these subsidies formerly granted, and must now draw on this. These are not extraordinary, but ordinary. I would they were not so ordinary.

And so he concluded that we might not trouble ourselves any further with considering of supply, except the contract be set on foot again.[1]

The debate was not resumed till the 23rd; the 21st and 22nd having been consumed in a discussion of the King's right to talk privately with members of the House concerning matters pending in Parliament; which ended in a resolution to do nothing upon the present case, but to make an order to prevent the like hereafter.[2] And when the main question was taken up again, it was evident that the King's explanatory message had not much mended matters. He had said that unless they would grant him the supply and support which he required the contract could not proceed, and the House seemed disposed to adopt Sir Nathaniel Bacon's motion, and reply in effect that unless the contract proceeded they would not grant any supply at all. Nothing was said about the petition from the two Houses which the Lords had desired: but it was proposed to put it to the question—"whether, things standing as they did, they should give a supply." Upon which (if I understand the notes of the debate rightly), it was moved by way of amendment "that a Committee should be chosen to consider how they might yield a supply."[3]

It must have been in proposing or supporting this amendment that Bacon made that "brief speech at the end of the session 7 Jacobi" which was found among his papers and printed in the Resuscitatio;—though the manuscript shews that upon second thoughts he had decided to leave it out of the collection.

The manuscript is in the British Museum, and belongs to the collection of *Orationes, Acta, Instrumenta, circa res civiles.* Originally it was a very fair transcript: but some passages have been struck out and some added by Bacon's own hand, and finally a line has been drawn across the whole page. As we know, however, from the note in Mr. Gardiner's manuscript that the first transcript repre-

[1] Parl. Deb. 1610, p. 135.

[2] Thursday, 22 Nov. 1610. . . . It is therefore ordered that no member of this house do hereafter presume or take upon him as a private man or otherwise to deliver his opinion or the reason of his opinion by way of conference or otherwise touching any matter depending in consultation in this House either to the King's Majesty or any of the Lords, without the assent, direction, or special order of the House in that behalf. Cott. MSS. Tit. F. 131.

[3] Parl. Deb. 1610, p. 143.

sented substantially the speech which was actually spoken, I shall give it first in that shape, and exhibit the successive alterations afterwards.

A [BRIEF] SPEECH USED IN THE END OF THE SESSION OF PARLIAMENT [7 JACOBI] PERSUADING [SOME] SUPPLY TO BE GIVEN TO HIS MAJESTY; [WHICH SEEMED THEN TO STAND IN DOUBTFUL TERMS, AND PASSED UPON THIS SPEECH.][1]

The proportion of the King's supply is not now in question: for when that shall be, it may be I shall be of opinion that we should give so now, as we may the better give again. But as things stand for the present, I think the point of honour and reputation is that which his Majesty standeth most upon; that our gift may at least be like those showers that may serve to lay the winds, though they do not sufficiently water the earth.

To labour to persuade you I will not; for I know not into what form to cast my speech. If I should enter into a laudative (though never so due and just) of the King's great merits, it may be taken for flattery: if I should speak of the strait obligations which intercede between the King and the Subject in case of the King's want, it were a kind of concluding the house: if I should speak of the dangerous consequence which Kings' want may reverberate upon subjects, it might have a shew of a secret menace.

These arguments are I hope needless, and do better in your minds than in my mouth. But this give me leave to say, that whereas the example of Cyrus was used, who sought his supply from those upon whom he had bestowed his benefits, we must always remember that there are as well benefits of the scepter as benefits of the hand; as well of government as liberality. These I am sure we will acknowledge to have come *plena manu* amongst us all, and all those whom we represent; and therefore it is every man's head in this case that must be his counsellor, and every man's heart his orator; and to those inward powers more forcible than any man's speech, I leave it. Howbeit, I was sorry to hear such a counterpoint of the wants of the kingdom sounded, to rebound to that which is already noised of the wants of the King; for it cannot be pleasing to God above to have his blessings so extenuated. Sure I am I see feasting,

[1] Harl. MSS. 6797. The words within brackets are inserted in Bacon's hand.

rich apparel, great portions given in marriages, fair buildings everywhere, and other magnificence; and in a word I see much excess, which though it be a cause of poverty, yet it is a sign of plenty.

Therefore to conclude, since you call to the question, I fear not the question, but that the House will go the right way, which I pray God to direct you to do.

So the speech stood in the manuscript before it was touched, and if it be compared with the note of "Mr. Solicitor's" speech (Parl. Debates, 1610, p. 143) on the 23rd of November, there can be no doubt that it was a report of the speech as spoken: only that the spoken speech appears to have ended with a recommendation that "the matters offered by way of retribution" should be examined *seriatim*, by themselves or by a Committee.

The first correction Bacon made in the manuscript was the beginning of a fresh sentence at the end; the words "For howsoever the House do dispute things wisely" being added in his hand. But instead of finishing the sentence he next proceeded to draw a line through the whole of the last paragraph—from "Therefore" to "wisely,"—and to substitute the following: "I should wrong the House to make long speech in that which concerneth a free gift, and therefore I wish it may go to the question."

Then he drew a line across the whole page from "Howbeit I was sorry," etc., to the end: but restoring the words "I wish it may go to the question" at the top of the page, and so leaving the conclusion in the form in which Rawley printed it, and in which it has always appeared—"and to those inward powers, more forcible than any man's speech, I leave it and wish it may go to the question."

Finally he drew a line across the whole, as if he thought it after all not worth preserving.

The fact (I suspect) was, that he had at first mistaken the occasion on which the speech was made. On the 11th of July, towards the end of the session immediately preceding, there had been a motion for "some supply to be given to his Majesty," the fate of which seemed at one time very doubtful, though it ultimately passed. (See p. 206; and C. J. p. 448). This speech would have suited that occasion quite well. It is probable, though he is not mentioned in the Journals among the speakers, that he did make one of the same tenour: and he may easily have mistaken this for the draft of it. In endeavouring to recall the words he had used he would recover his recollection of the other circumstances, and remember that it was a speech spoken at another time, when, though the occasion was

similar, the result was different. Not being entitled to preservation therefore as a specimen of successful persuasion, it seemed to have no other title; and instead of correcting the heading again, he simply drew his pen across both pages.

8.

What effect it had upon the House on the 23rd of November we do not know; but though it may have helped to divert them from a flat refusal of all supply, it did not prevent other speeches from being made which were almost as fatal to harmony as such a refusal would have been: and though the debate ended in a resolution to send the King a message of thanks and explanations,[1] the accounts he heard of what had been said in the course of it satisfied him that there was no chance of agreement and that his only course was to dissolve the Parliament. The following letter, written to Salisbury from the Court at Royston on the 25th of November, gives a lively picture of the King's state of mind, and makes all that followed quite intelligible.

"He hath received by Sir Roger Aston a copy of the order set down against the next meeting of the House; which his Majesty doth collect into three points. First to give reasons why they should yield to no supply; secondly to examine the answers to the grievances, and wherein they are not satisfactory; and thirdly, to consider what further immunities and easements are to be demanded for the people. His Majesty doth also perceive, both by my Lord of Montgomery and by Sir Roger Aston, that you could wish that his Majesty and your Lordships might have a meeting to consult of his affairs in parliament.

"To both these his Majesty willeth this to be written:—

"That he maketh no doubt but that the cause of your late advice to adjourn the House was for that you foresaw they would do worse on Saturday than they had done on Friday; and how you are now assured that when they meet again on Thursday they will not be in the same mood, his Majesty would be glad to know. For he assureth himself that if your Lordships thought the House would follow the same humour, you would not advise their meeting. His Highness wisheth your Lordships to call to mind that he hath now had patience with this assembly these seven years, and from them received more disgraces, censures, and ignominies, than ever Prince did endure. He followed your Lordships' advices in having

[1] "*Sir Herbert Croft:* Fit to make known to the King wherein we are not satisfied, and what we do desire, and to give thanks for that which he hath granted.

"Which was concluded upon by a question, and order taken that none should depart forth of the town, *sub pœna* of committing to the Tower." Parl. Deb. 1610, p. 145.

patience, hoping for better issue. He cannot have asinine patience; he is not made of that metal that is ever to be held in suspense and to receive nothing but stripes; neither doth he conceive that your Lordships are so unsensible of those indignities, as that you can advise any longer endurance. For his part he is resolved, though now at their next meeting they would give him supply were it never so large, and sauce it with such taunts and disgraces as have been uttered of him and of those that appertain to him (which by consequence redound to himself), nay though it were another kingdom, he will not accept it.

"Therefore touching the other point of his meeting with your Lordships, either by his coming nearer to you or any of your coming to him, his Highness thus answereth. That no man should be more willing to take pains than he, when there is hope of good to come by it. But as things now stand in appearance, for him to put either himself or you to the labour of an unpleasant journey without likelihood of comfort, but on the contrary when you meet together to find the pains of your bodies aggravated with vexation of spirit, or to part irresolute as at the last conference you did,—his Majesty doth not see to what end such a meeting should be. But for aught he seeth in his own understanding, he taketh no other subject of consultation to be left, than how the Parliament may end quietly, and he and his subjects part with fairest show; which he conceiveth must begin with some new adjournment until Candlemas term or the end thereof in regard of the nearness of Christmas. And in the mean time your Lordships and he may advise both how to dissolve it in best fashion, and fall to other consultation about his affairs."[1]

The rest, so far as it concerns us, may be told in the words of the private Journal.

"On Saturday the Speaker received a letter from his Majesty, signifying that he had offered divers things of grace for the good of his subjects, but the more he was desirous to give them contentment, he did perceive the less it was regarded, and that new grievances and complaints were raised to his dishonour. And therefore he commanded him to adjourn the House and all Committees till Thursday following. At what time we should hear further from him.

"And so accordingly the Parliament was adjourned, and from thence adjourned by Commission to some of the Lords, usque 9 Febr., the King being at Royston."[2]

These adjournments had been so timed (by the care of Salisbury, I think, rather than the King)[3] as to prevent the House from doing any business after the 24th of November, and on the 29th February

[1] Sir T. Lake to Salisbury, 23 Nov. *S. P. Dom. James I. vol. lviii. no. 35.
[2] Parl. Deb. 1610, p. 145.
[3] See copy of a letter from Sir T. Lake to Salisbury, 3 Dec. 1610. Addl. MSS. Brit. Mus. 4160, 134.

the Parliament was dissolved. So that Salisbury's second project failed (as might indeed have been expected) more signally than the first. And a very great failure it was, whoever was to blame for it. That he failed to get what he first demanded was no great matter: the demand was exorbitant, and the chance of winning (though small) might have been good enough to make it worth the trial, if the only consequence of *not* winning had been to go without the money. But that was far from being the case. The long negotiation,—opened, carried on, and broken off as it had been,—left the discontents of the House of Commons aggravated and exasperated by discussion and disappointment, and the King's finances worse embarrassed than ever; because the notoriety of his necessities and the utter failure of this great effort to relieve them, from which so much had been expected, left him not only without money but without credit. So that the terms on which they parted, though displeasing alike to both, were infinitely to the disadvantage of the King. The Commons had lost nothing; nothing at least that touched their particular pockets or feelings (for of the general evils of a distracted government they came in of course for their share): in spite of their unredressed grievances, they could make money, build houses, feed themselves, clothe themselves, marry and give in marriage, as merrily as ever. But the King could not borrow 100,000*l.* of the Aldermen, to pay his most pressing debts with. The emptiness of the Exchequer, the shifts and perplexities of the Lord Treasurer, became the common talk of the Town. Ambassadors were told that they must wait for their salaries. Pensioners were forced to turn duns. The Paul's-walkers entertained themselves with wondering how Salisbury would scrape together money enough to provide the usual Christmas festivities. And though the House of Commons had not intended to try the effect of absolutely refusing the supplies, they had now an opportunity of seeing what the effect was.

What Bacon thought of all this while it was going on, must be left to conjecture: except as a reporter of other men's speeches, or an occasional intercessor to moderate rash counsels, he appears to have had no part in it. Of what he thought about it afterwards, and what conclusions he drew from the history of it, we shall hear a good deal presently; and then it will be seen why I thought it necessary to enter so fully into the particulars of a transaction with which he had so little to do.

CHAPTER VII.

A.D. 1611. ÆTAT. 51.

1.

The prorogation and subsequent dissolution of the Parliament left Bacon with another season before him of political inactivity: for while Salisbury lived he had no room for action beyond the ordinary business of his place, except in the House of Commons; nor much there, except as a supporter of measures which were not of his own advising. To this period we owe the new essays published in 1612; —an addition to the very small collection printed fifteen years before so considerable that it may be said to have made the work which was destined to make him the personal and familiar acquaintance of all future generations of Englishmen. Further additions at a later time greatly increased its value, but its character was henceforth established and its immortality secure. The edition of 1612, had it been the last, would undoubtedly have held the same position in literature which the edition of 1625 does now. To this period also we owe the revision and collection of those speeches and writings of business which belong to this division of his works, and represent the most important part of his active life. And though we have not the means of dating accurately the several stages in the progress of the Great Instauration, there can be little doubt that this was one of its most fertile seasons. The revelations of Galileo's telescope—an invention "*et fine et aggressu nobile quoddam et humano genere dignum*"[1]—were the fresh news of the time, and in the *Descriptio Globi Intellectualis*, the *Thema Cœli*, the speculation on the ebb and flow of the sea, and other essays on the philosophy of the universe, we may see traces of the interest which they had excited in him.

Unfortunately the same time which promised to throw so much new light upon the kingdom of nature portended much trouble to the kingdom of England. The relation between the Crown and

[1] Phil. Works, Vol. III. pp. 716, 736.

the Commons as it remained after the dissolution must have been a matter of great anxiety to any one who understood it, and foresaw the consequences; and must have convinced Bacon, who certainly did understand it very clearly, that if ever he had an opportunity of assisting in setting it right, it was in that work that his first duty now lay. A few years before, he had professed a desire to withdraw from active business of state and devote himself to the prosecution of the work which he had selected for himself in his early youth as worthiest in its object and best suited to his capacity; nor is there any reason to suppose that, at that time, he would not have done so if he could have afforded it. He would now, I think, have qualified the desire with an important condition,—namely, that the relation between the King and the people should be first placed on a safer footing.

For the present indeed he could do nothing towards the remedy. Salisbury had played his great card and lost the game; and I do not find that he had any other device in store which had even a show of being sufficient: only shifts and temporary expedients. But he held his place; and Bacon could only continue to do as he had done before,—give him such help as he would accept, and insinuate his readiness to give more. How scanty the opportunities were which he could take hold of, may be inferred from the small number and unimportant nature of the papers belonging to the period between the dissolution of Parliament and Salisbury's death, which have come down to us.

2.

The first of these is a letter to the King in behalf of his own particular fortunes. The Speaker of the last House of Commons, who had always been in confidential correspondence with Salisbury and done his best to help the King's business through on some critical occasions, had been rewarded with the Mastership of the Rolls; and Sir Julius Cæsar, another earnest and admiring ally, had received a grant of the reversion of the office. Bacon, who had had good reason to know that if the choice of an Attorney-General were left to Salisbury, he could not count upon succeeding to the place himself in the event of a vacancy, began to fear that the lines of his own promotion would be all cut off; and thought it prudent to secure his chance by obtaining directly from the King a promise of the reversion.

Of the letter in which he made the application there are two copies, slightly differing from each other—one in the Resuscitatio and the other among the original manuscripts preserved at Lambeth

—one representing probably the draft, and the other the fair copy. Which is which, it is in this case difficult to say. But as the Lambeth copy is a fair transcript in Bacon's own hand, and appears to be complete, I incline to take it for the later form: and therefore use it for the text, giving the readings of the other copy in the foot notes.[1]

There is no date to either: but if I am right in connecting the application with the grant of the reversion of the Mastership of the Rolls to Sir Julius Cæsar—which was the "preferment of law" most likely to interfere with Bacon's prospects—it must have been written early in 1611.[2]

To the King, desiring to succeed in the Attorney's place.[3]

It may please your Majesty,

Your great and princely favours towards me in advancing me to place, and that which is to me of no less comfort, your Majesty's benign and gracious acceptation from time to time of my poor services, much above the merit and value of them, hath almost brought me to an opinion, that I may sooner perchance be wanting to myself in not asking, than find your Majesty's goodness wanting to me in any my reasonable and modest desires. And therefore perceiving how at this time preferments of the law fly about mine ears, to some above me and to some below me, I did conceive your Majesty may think it rather a kind of dullness, or want of faith, than modesty, if I should not come with my pitcher to Jacob's well, as others do. Wherein I shall propound to your Majesty that which tendeth not so much to the raising of my fortune, as to the settling of my mind: being sometimes assailed with this cogitation, that by reason of my slowness to sue and apprehend occasions upon the sudden,[4] keeping one[5] plain course of painful service, I may *in fine dierum*

[1] In the collation R means *Resuscitatio;* A, Addl. MSS. 5503, which agrees with the copy in the Resuscitatio except that it is more correct. The title is from R.

[2] Cæsar's appointment was in January 1610–11; and it seems that about the same time there were rumours of a *second* reversion to another of Salisbury's devoted adherents. On the 12th of February 1610–11, Sir Rowland Lytton writes to Sir Dudley Carleton—"The Earl of Dunbar is dead and it is to be hoped that we shall have fair weather. The Earl of Mar is Treasurer of Scotland in his room: and the Lord Fenton is Counsellor in Lord Kinloss's room. And Sir Julius Cæsar is ready to help Sir Edward Phelipps in the Mastership of the Rolls when he is weary, and our good friend Sir W. Cope is like to do as much for him." S. P. Dom. James I., Vol. 61, No. 80.

[3] Lambeth MSS. Gibson Papers, vol. viii. fo. 5.

[4] *to see and apprehend sudden occasions:* R and A.

[5] *in one:* R and A.

be in danger to be neglected and forgotten. And if that should be, then were it much better for me, now while I stand in your Majesty's good opinion, (though unworthy,) and have some little reputation in the world, to give over the course I am in, and to make proof to do you some honour by my pen, either by writing some faithful narrative of your happy though not untraduced times; or by recompiling your laws, which I perceive your Majesty laboureth with and hath in your head, as Jupiter had Pallas; or some other the like work (for without some endeavour to do you honour I would not live); than to spend my wits and time in this laborious place wherein I serve,[1] if it shall be deprived of those outward ornaments and inward comforts[2] which it was wont to have, in respect of an assured succession to some place of more dignity and rest; which seemeth to be an hope now altogether casual, if not wholly intercepted. Wherefore, not to hold your Majesty long, my humble suit to you is that which I think I should not without suit be put by, which is, that I may obtain your assurance to succeed[3] (if I live) into the Attorney's place, whensoever it shall be void; it being but the natural and immediate step and rise which the place I now hold hath ever in a sort made claim to, and almost never failed of. In this suit I make no friends to your Majesty,[4] though your Majesty knoweth that I want not those which are near and assured, but rely upon no other motive than your grace; resting your M. most humble subject and servant.[5]

The King gave him, it seems, the assurance which he asked: for in the course of the following summer or autumn the Attorney-General had a serious illness; and Bacon writing to the King in acknowledgement of some favourable remembrance of himself which had been reported to him, alludes to his "royal *promise* touching the Attorney's place." The letter comes from his own collection. The date I suppose to be October or thereabouts; for on the 21st of that month I find John Murray expressing a hope that "if Mr. Attorney's sickness should not permit him to come abroad," some cause

[1] *now serve:* R, A.
[2] *and inward comforts* om.: R.
[3] *to your Majesty is that than the which I cannot well go lower, which is that I may obtain your royal promise to succeed,* &c.: R, A.
[4] *no friends but to your M.:* R.
[5] *no other motive but your grace, nor any other assurance but your word, whereof I had good experience, when I came to the solicitor's place, that it was like the two great lights, which in their motions are never retrograde. So with my best prayers for your Majesty's happiness, I rest*—R, A.

in which he was interested might be put off till the next Thursday, "by which time he hoped he would be well."[1]

A Letter of thanks to the King, upon Mr. Attorney's sickness.[2]

It may please your most excellent Majesty,

I do understand by some of my good friends, to my great comfort, that your Majesty hath in mind your Majesty's royal promise, (which to me is *anchora spei*), touching the Attorney's place. I hope Mr. Attorney shall do well. I thank God I wish no man's death; nor much mine own life, more than to do your Majesty service. For I account my life the accident, and my duty the substance. But this I will be bold to say; if it please God that I ever serve your Majesty in the Attorney's place, I have known an Attorney Cooke, and an Attorney Hubberd, both worthy men and far above myself: but if I should not find a middle way between their two dispositions and carriage, I should not satisfy myself. But these things are far or near, as it shall please God. Meanwhile I most humbly pray your Majesty accept my sacrifice of thanksgiving for your gracious favour. God preserve your Majesty. I ever remain—

3.

Two letters of ordinary business, and one of ordinary compliment upon a New Year's tide, all addressed to Salisbury, make up the remaining correspondence of this year.

The first relates to a Proclamation concerning the value of coins, which (during Hobart's illness) Bacon had apparently received directions from Salisbury to draw. A proclamation answering the description was published on the 23rd of November 1611. But as I do not know that Bacon had anything to do with it beyond the execution of his instructions, or that any draft has been preserved from which anything can be inferred as to his own private opinion in the matter, I need not do more than refer such readers as are curious to the Book of Proclamations, p. 250. The object was to prevent the exportation of gold, by removing the inequality between the price at home and the price abroad: for it seems that the gold piece which was then current in England for 20 shillings was valued in foreign parts at 22, and others in the same proportion. In that proportion the price of all gold coins, old as well as new, was to be raised. It

[1] John Murray to Salisbury, 21 Oct. 1611. S. P. Dom. James I., vol. 66, no. 89.
[2] Addl. MSS. 5503, fo. 40.

seems to have been a measure suggested by the King himself. "The Proclamation (says Humphrey May, writing to Salisbury on the 22nd of November 1611) was very welcome unto him, and he told me the beginning and the process of the resolution for it betwixt himself and your Lordship. He said you were cold in it at first, and he was glad to find an earnestness in you for it now, rejoicing that he had won you to his opinion."[1]

To the R. Honble. his very good L. the L. High Treasurer of England.[2]

It may please your Lordship,

I return your good Lordship's minute; excellently in my opinion reformed from the first draught in some points of substance. I send likewise a clause warranting the subject to refuse gold lighter than the Remedies expressed, which is no new device, but the same with 29° Eliz.[3]

I find also Mr. Dubbleday to make it a thing difficult to name the pieces of more ancient coin than his Majesty's, for which I have likewise sent a clause. This last clause is immediately to follow the Table of the coins expressed. The clause of the weight is to come last of all.

So with my prayers I rest

Your Lordship's most humble and bounden,

Fr. Bacon.

The next letter is written on the fly leaf of a petition for certain concealed lands, which had been referred in the first instance to William Typper: whose answer is written at the top, in these words: "As concerning the lands contained in this petition, I can say nothing unto them. 19 November 1611.

Ex. p^r me Willm. Typper."

[1] S. P. Dom. James I., vol. 67, no. 43.

[2] S. P. Dom. James I., vol. 66, no. 103. Original: own hand. Docketed "October 1611, Sir Francis Bacon to my Lord."

[3] "And forasmuch as the greater price is set upon our coins of gold, which is like also to be a means to draw forth gold to be more usual in payments than of late it hath been, the more convenient it is that no pieces of gold which are become light by any clipping or washing or the like practices, be put upon our loving subjects in any payments to their prejudice, if the defect be not within that small abatement which must be by reason of the incertainty of the shearers at the mint; we have thought good according to the precedent of a Proclamation made in the nine and twentieth year of the reign of our late dear sister Queen Elizabeth, which continued in force till her decease, to declare, and by these presents we do declare, that it shall be free and lawful for all and every our loving subjects to refuse in any payments all pieces of gold which shall be lighter than according to the remedies or abatements hereafter following." Book of Proclamations, p. 252.

Underneath which is written the following certificate by Bacon; addressed I presume to Salisbury.[1]

It may please your Lordship,

This case differeth from the general case. For it seemeth the lands sued for are in feoffment to the use of a school in Okehampton in Devonshire; and two of the feoffees, being four in number, and likewise the undertenants finding and acknowledging the weakness of their estate, have brought the suit to the petitioner to the end to have it confirmed, and the petitioner is content there be no diminution at all, but rather increase of that allowance which goeth to the good use; and seeketh but the benefit of that overplus which goeth to some of the feoffees' private purses. Nevertheless, because it seemeth two of the feoffees do not join, it were good letters were directed to them to know what they can say, why the state of those lands should not be established to the good uses, with some reasonable consideration to be given to the petitioner, and composition to his Majesty.

Your Lps. most humble,

Fr. Bacon.

23 Nov. 1611.

The remaining letter has no date, but must have been written, I think, on the 1st of January 1611–12. We know that in the autumn of 1611 the Attorney General had an illness, serious enough to raise the question who should succeed him if he did not recover. We have seen what Bacon wrote to the King on that occasion, and it is to be presumed that either by letter or word he made some communication to Salisbury. If he received a favourable answer,—and it is not likely that he received any other, for Salisbury was seldom otherwise than friendly *secundum exterius*,—this is exactly the kind of letter he might have been expected to write to him when the season of compliments came round. And though we shall see hereafter that there lay under it a deep disapprobation of his recent proceedings, and even a devout wish in the interests of the country that he were out of the way, it was probably true that as long as he held his place and nothing could be done without his concurrence, Bacon desired nothing more than to obtain influence with him.

[1] S. P. Dom. James I., vol. 67, no. 31.

A LETTER TO MY LORD TREASURER SALISBURY, UPON A NEW YEAR'S TIDE.[1]

It may please your good Lordship,

I would intreat the new year to answer for the old, in my humble thanks to your Lordship, both for many your favours, and chiefly that upon the occasion of Mr. Attorney's infirmity I found your Lordship even as I would wish. This doth increase a desire in me to express my thankful mind to your Lordship; hoping that though I find age and decays grow upon me, yet I may have a flash or two of spirit left to do you service. And I do protest before God, without compliment or any light vein of mind, that if I knew in what course of life to do you best service, I would take it, and make my thoughts, which now fly to many pieces, be reduced to that center. But all this is no more than I am, which is not much, but yet the entire of him that is—

Another letter of friendly compliment to one whom Bacon had often in former times found a friend in need, belongs to the beginning of this new year, and affords an agreeable proof that the relation of borrower and lender does not necessarily end in estrangement. The occasion must be inferred from the letter itself. It is plain that in some emergency, a good while before, Bacon had been obliged to borrow a pair of stockings from Lady Hickes or her daughter, and had neglected to return them. He takes advantage of a new year's tide to confess the fault and repay the obligation.

The first sentence implies a fact which it is pleasant to know: for I take it that the debts which Bacon had owed to Sir Michael Hickes were heavy ones.

TO MY VERY GOOD FRIEND SIR MICHAEL HICKES, KNIGHT.[2]

Sir Michael,

I do use as you know to pay my debts with time. But indeed if you will have a good and parfite colour in a carnation stocking it must be long in the dyeing. I have some scruple of conscience whether it was my Lady's stockings or her daughter's, and I would have the restitution to be to the right person, else I shall not have absolution. Therefore I have sent to them both,

[1] Addl. MSS. 5503, fo. 43. b.
[2] Lansd. MSS. XCII. fo. 139. Orig.: own hand.

desiring them to wear them for my sake, as I did wear theirs for mine own sake. So wishing you all a good new year, I rest

Yours assured,

Fr. Bacon.

Grays Inn,
this 8th of Jan. 1611.

The business alluded to in a short letter written a little later to John Murray (who according to Bishop Goodman was "an universal man, and got more or less by every suit"[1]), was connected probably with some grant which had been referred to Bacon as Solicitor General. But as the enclosure has not been preserved we have no means of identifying it.

To his very loving friend, Mr. John Murray, of his Majesty's Bedchamber, deliver these.[2]

Good Mr. Murray,

I have laboured like a packhorse in your business, and, as I think, I have driven in a nail. I pray deliver the enclosed to his Majesty, wherein I have made mention of the same. I rest

Yours assured,

27th January 1611.[3] Fr. Bacon.

4.

We now come to a paper for which Bacon must be regarded as altogether answerable; and it is the rather deserving of attention because some severe censures have been passed upon him for writing it. Being a purely voluntary performance, not in any way connected with the business of his office, and having been carefully preserved among his papers by himself, it may be justly treated as an act of his own; and whatever blame it merits rests with him. But I think the censures have been passed without due attention to the circumstances; of which a sufficient record has fortunately, though accidentally, been preserved.

Thomas Sutton, having in a long life of various enterprise amassed a great fortune, proposed to bestow the bulk of it after his death upon some great public charity: for which he had been long engaged in making provision and preparation. He died on the 12th of December 1611, leaving a will of which we have the following contemporary report, written a few days after.

[1] Court of James I. i. p. 203.

[2] Harl. MSS. 6986, fo. 202. The original is in the Advocates' Library, Edinburgh.

[3] So in the copy in the British Museum; and also in a note of the original letter, for which I am indebted to Mr. David Laing. But I suspect the true date to be 1614.

"I cannot yet learn many particulars of his will, but thus much hath been told me from the mouth of auditor Sutton one of his executors,—that he hath given 20,000*l.* ready money to charitable uses, to be disposed by the Archbishop of Canterbury, the Bishop of Ely, and the Bishop of London. He hath left 8000*l.* lands a year to his college or hospital at the Charterhouse (which is not bestowed on the Prince, as was given out), to the maintenance of eight score soldiers [gentle]men (?), who are to have pensions according to their degree, as they have borne places of captains, lieutenants, or ancients, or the like. There is a school likewise for eight score scholars, with 100*l.* stipend for the schoolmaster, and other provision for ushers; with 100 marks a year wages for a gardener, to keep the orchard and gardens in good order. Many other legacies I hear of, which you shall have together if I can get them. I cannot learn of much that he hath left to his poor kindred: not above the value of 400*l.* a year."[1]

So much we may suppose Bacon knew of the matter at this time,—being the news of the day; and I do not know that he had other special means of information. But the will was not destined to pass unquestioned. On the 15th of January 1611–12, Chamberlain writes again:

"Rich Sutton's will is called in question, and will come sub judice. A certain tanner, pretending to be his heir at common law, goes about to overthrow it, and wants not abettors. *He was called to the council table on Sunday and there bound in* 100,000*l. (if he do evict the will) to stand to the King's award and arbitrement.*"[2]

Of this also we may presume that Bacon was informed, though there is no reason to suppose that up to this time he had anything else to do with it. At any rate he must have known all about it soon after, for he was one of the law officers appointed by the Privy Council to hear and report upon the cause.[3] And I conclude it was at this time, and with a view to the possible issue of this proceeding, that he drew up the following paper of advice to the King: advice of which the wisdom may possibly be disputed, though I rather think that the history of charitable institutions in England would supply more examples in approval than in disapproval of it; but which certainly, as long as he himself believed it to be good, he cannot reasonably be censured for offering. Faithful alumni of the Charterhouse may indeed be excused for protesting vehemently against an argument which assails the principles of their foundation, and for finding Bacon guilty of an error in judgment. But those who accuse him of advising a violation of the law must surely

[1] Chamberlain to Carleton, 18 Dec. 1611. S. P. Dom. James I., vol. 67, no. 104.
[2] Do. to. do., 15 Jan. 1611. S. P. Dom. James I., vol. 68, no. 18.
[3] Bancroft's 'Life of Sutton,' p. 123.

have overlooked the second paragraph, in which it is expressed as distinctly as possible that the intentions of the testator are not to be interfered with as long as the bequest is either held good in law or can be made good by equity. And his ideas concerning the conditions under which charities of this kind may be made to do most good may still be studied with advantage.

Advice to the King, touching Sutton's Estate.[1]

May it please your Majesty,

I find it a positive precept of the old law, that there should be no sacrifice without salt: the moral whereof (besides the ceremony) may be, that God is not pleased with the body of a good intention, except it be seasoned with that spiritual wisdom and judgment, as it be not easily subject to be corrupted and perverted: for salt, in the scripture, is a figure both of wisdom and lasting. This cometh into my mind upon this act of Mr. Sutton, which seemeth to me as a sacrifice without salt, having the materials of a good intention, but not powdered with any such ordinances and institutions as may preserve the same from turning corrupt, or at least from becoming unsavoury and of little use. For though the choice of the feoffees be of the best, yet neither they can always live, and the very nature of the work itself, in the vast and unfit proportions thereof, being apt to provoke a mis-employment, it is no diligence of theirs (except there be a digression from that model) that can excuse it from running the same way that gifts of like condition have heretofore done. For to design the Charterhouse, a building fit for a Prince's habitation, for an hospital, is all one as if one should give in alms a rich embroidered cloak to a beggar; and certainly a man may see, *tanquam quæ oculis cernuntur*, that if such an edifice, with six thousand pounds revenue, be erected into one hospital, it will in small time degenerate to be made a preferment of some great person to be master, and he to take all the sweet, and the poor to be stinted, and take but the crumbs; as it comes to pass in divers hospitals of this realm, which have but the names of hospitals, and are but wealthy benefices in respect of the mastership; but the poor, which is the *propter quid*, little relieved. And the like hath been the fortune of much of the alms of the Roman religion in their great foundations, which

[1] Harl. MSS. 6797, fo. 155. The title is added in Bacon's own hand.

being begun in vain glory and ostentation, have had their judgment upon them to end in corruption and abuse. This meditation hath made me presume to write these few lines to your Majesty; being no better than good wishes, which your Majesty's great wisdom may make something or nothing of.

Wherein I desire to be thus understood, that if this foundation (such as it is) be perfect and good in law, then I am too well acquainted with your Majesty's disposition to advise any course of power or profit that is not grounded upon a right: nay further, if the defects be such as a court of equity may remedy and cure, then I wish that as St. Peter's shadow did cure diseases, so the very shadow of a good intention may cure defects of that nature. But if there be a right and birth-right planted in the heir, and not remediable by courts of equity, and that right be submitted to your Majesty, whereby it is both in your power and grace what to do; then I do wish that this rude mass and chaos of a good deed were directed rather to a solid merit and durable charity than to a blaze of glory, that will but crackle a little in talk and quickly extinguish.

And this may be done, observing the *species* of Mr. Sutton's intent, though varying *in individuo*. For it appears that he had in notion a triple good; an hospital, and a school, and maintaining of a preacher: which individuals resort to these three general heads; relief of poor, advancement of learning, and propagation of religion. Now then if I shall set before your Majesty, in every of these three kinds, what it is that is most wanting in your kingdom, and what is like to be the most fruitful and effectual use of such a beneficence, and least like to be perverted; that, I think, shall be no ill scope of my labour, how meanly soever performed; for out of variety represented, election may be best grounded.

Concerning the relief of the poor, I hold some number of hospitals with competent endowments will do far more good that one hospital of an exorbitant greatness. For though the one course will be the more seen, yet the other will be the more felt. For if your Majesty erect many, besides the observing the ordinary maxim, *Bonum quo communius eo melius*, choice may be made of those towns and places where there is most need, and so the remedy may be distributed as the disease is dispersed. Again, greatness of relief accumulate in one place doth rather

invite a swarm and surcharge of poor, than relieve those that are naturally bred in that place; like to ill-tempered medicines, that draw more humour to the part than they evacuate from it. But chiefly I rely upon the reason that I touched in the beginning; that in these great hospitals the revenues will draw the use, and not the use the revenues; and so through the mass of their wealth they will swiftly tumble down to a mis-employment. And if any man say that in the two hospitals in London there is a precedent of greatness concurring with good employment, let him consider that those hospitals have annual governors; that they are under the superior care and policy of such a state as the city of London; and chiefly, that their revenues consist not upon certainties, but upon casualties and free gifts, which gifts would be withheld if they appeared once to be perverted; so as it keepeth them in a continual good behaviour and awe to employ them aright; none of which points do match with the present case.

The next consideration may be, whether this intended hospital, as it hath a more ample endowment than other hospitals, should not likewise work upon a better subject than other poor; as that it should be converted to the relief of maimed soldiers, decayed merchants and householders, aged and destitute churchmen, and the like; whose condition, being of a better sort than loose people and beggars, deserveth both a more liberal stipend and allowance, and some proper place of relief, not intermingled or coupled with the basest sort of poor. Which project, though specious, yet in my judgment will not answer the designment in the event, in these our times. For certainly few men in any vocation, which have been somebody, and bear a mind somewhat according to the conscience and remembrance of that they have been, will ever descend to that condition as to profess to live upon alms, and to become a corporation of declared beggars; but rather will choose to live obscurely, and as it were to hide themselves with some private friends: so that the end will be of such an institution, that it will make the place a receptacle of the worst, idlest, and most dissolute persons of every profession, and to become a cell of loiterers, and cast serving-men, and drunkards, with scandal rather than fruit to the commonwealth. And of this kind I can find but one example with us, which is the alms knights of Windsor; which particular would give a man small encouragement to follow that precedent.

Therefore the best effect of hospitals is to make the kingdom if it were possible capable of that law, *that there be no beggar in Israel:* for it is that kind of people that is a burthen, an eye sore, a scandal, and a seed of peril and tumult in a state. But chiefly it were to be wished such a beneficence towards the relief of poor were so bestowed, as not only the mere and naked poor should be sustained, but also that the honest person which hath hard means to live, upon whom the poor are now charged, should be in some sort eased: for that were a work generally acceptable to the kingdom, if the public hand of alms might spare the private hand of tax: and therefore of all other employments of that kind I commend most houses of relief and correction which are mixt hospitals, where the impotent person is relieved, and the sturdy beggar buckled to work, and the unable person also not maintained to be idle, which is ever joined with drunkenness and impurity, but is sorted with such work as he can manage and perform, and where the uses are not distinguished, as in other hospitals, whereof some are for aged and impotent, and some for children, and some for correction of vagabonds, but are general and promiscuous, that may take off poor of every sort from the country as the country breeds them. And thus the poor themselves shall find the provision, and other good people the sweetness of the abatement of the tax. Now if it be objected that houses of correction in all places have not done the good expected (as it cannot be denied but in most places they have done much good), it must be remembered that there is a great difference between that which is done by the distracted government of justices of peace, and that which may be done by a settled ordinance, subject to a regular visitation, as this may be; and besides the want hath been commonly in houses of correction of a competent and certain stock for the materials of the labour, which in this case may be likewise supplied.

Concerning the advancement of Learning, I do subscribe to the opinion of one of the wisest and greatest men of your kingdom: That for grammar schools there are already too many, and therefore no providence to add where there is excess. For the great number of schools which are in your Highness realm, doth cause a want and doth cause likewise an overflow, both of them inconvenient, and one of them dangerous. For by means thereof they find want in the country and towns, both of servants for

husbandry, and apprentices for trade; and on the other side there being more scholars bred than the state can prefer and employ, and the active part of that life not bearing a proportion to the preparative, it must needs fall out that many persons will be bred unfit for other vocations, and unprofitable for that in which they are brought up; which fills the realm full of indigent, idle, and wanton people, which are but *materia rerum novarum*.

Therefore, in this point, I wish Mr. Sutton's intention were exalted a degree, that that which he meant for teachers of children, your Majesty should make for teachers of men. Wherein it hath been my ancient opinion and observation, that in the universities of this realm (which I take to be of the best endowed universities of Europe) there is nothing more wanting towards the flourishing state of learning than the honourable and plentiful salaries of readers in arts and professions. In which point, as your Majesty's bounty already hath made a beginning, so this occasion is offered of God to make a proceeding. Surely readers in the chair are as the *Parents* in sciences, and deserve to enjoy a condition not inferior to their children that embrace the practical part; else no man will sit longer in the chair than till he can walk to a better preferment: and it will come to pass as Virgil says,

Ut patrum invalidi referant jejunia nati.

For if the principal readers through the meanness of their entertainment be but men of superficial learning, and that they shall take their place but in passage, it will make the mass of sciences want the chief and solid dimension, which is depth; and to become but pretty and compendious habits of practice. Therefore I could wish that in both the universities, the lectures as well of the three professions, Divinity, Law, and Physic, as of the three heads of science, Philosophy, arts of speech, and the mathematics, were raised in their pensions unto 100*l.* *per annum* apiece. Which though it be not near so great as they are in some other places, where the greatness of the reward doth whistle for the ablest men out of all foreign parts to supply the chair, yet it may be a portion to content a worthy and able man, if he be likewise contemplative in nature, as those spirits are that are fittest for lectures. Thus may learning in your kingdom be ad-

vanced to a further height; learning (I say) which under your Majesty, the most learned of kings, may claim some degree of elevation.

Concerning propagation of Religion, I shall in few words set before your Majesty three propositions; none of them devices of mine own, otherwise than that I ever approved them; two of which have been in agitation of speech and the third acted.

The first a college for controversies, whereby we shall not still proceed single, but shall as it were double our files, which certainly will be found in the encounter.

The second a receipt for (I like not the word *Seminary*, in respect of the vain vows and implicit obedience and other things tending to the perturbation of states involved in that term) converts to the reformed religion, either of youth or otherwise. For I doubt not but there are in Spain, Italy, and other countries of the Papists, many whose hearts are touched with a sense of those corruptions and an acknowledgment of a better way; which grace is many times smothered and choked through a worldly consideration of necessity; men not knowing where to have succour and refuge. This likewise I hold a work of great piety and a work of great consequence, that we also may be wise in our generation, and that the watchful and silent night may be used as well for sowing of good seed as of tares.

The third is, the imitation of a memorable and religious act of Queen Elizabeth; who finding a part of Lancashire to be extremely backward in religion, and the benefices swallowed up in impropriations, did by decree in the Duchy erect four stipends of 100*l.* *per annum* apiece, for preachers well chosen to help the harvest, which have done a great deal of good in the parts where they have laboured; neither do there want other corners in the realm that would require for a time the like extraordinary help.

Thus have I briefly delivered unto your Majesty my opinion touching the employment of this charity; whereby that mass of wealth, that was in the owner little better than a stack or heap of muck, may be spread over your kingdom to many fruitful purposes, your Majesty planting and watering, and God giving the increase.

The legal question was tried afterwards in 1613 before all the Judges in the Exchequer; and Bacon appeared as counsel for the

pretended heir.[1] But that was only in the ordinary practice of his profession: and judgment being given in favour of the will, the advice (whatever the King thought of it) of course fell to the ground, there being no opportunity to act upon it.

5.

The proclamation concerning the value of gold pieces had the effect of bringing more gold to the mint: but it was accompanied or followed by an increased scarcity of silver; the causes of which were referred by the Council to the two Chancellors—(that is, I suppose, the Chancellor of the Duchy and the Chancellor of the Exchequer, Sir T. Parry and Sir Julius Cæsar)—and the Solicitor General. A copy of the certificate which they returned was preserved among Bacon's papers, and appears to have belonged originally to the volume entitled *Orationes, Acta, Instrumenta*, though now separated from it. I presume therefore that it was drawn up by Bacon himself. It has no date, but as it seems to have been drawn up three months after the publication of a Proclamation by which the price of gold was raised, and such a proclamation was published on the 23rd of November 1611, this is probably its proper place. The policy belongs to an age when the wealth of a nation was believed to consist of the gold and silver which it contained. And though Bacon was well aware that the *greatness* of a nation did not consist in its "treasure or riches," I suppose he fully shared the general opinion of his contemporaries that the *treasure or riches* of a nation consisted in the store of precious metals which could be drawn and kept within its limits.

A Certificate to the Lords of the Council, upon information given touching the Scarcity of Silver at the Mint, and Reference to the two Chancellors, and the King's Solicitor.[2]

It may please your Lordships,

According unto your Lordships letters unto us directed, grounded upon the information which his Majesty hath received concerning the scarcity of silver at the Mint we have called before us as well the officers of the Mint as some principal merchants, and spent two whole afternoons in the examination of the

[1] See a report of the case in the Cambridge University Library. Hh. ii. 2, p. 200.

[2] Harl. MSS. 7020, fo. 164. The heading is inserted in Bacon's own hand.

business; wherein we kept this order, first to examine the fact, then the causes with the remedies.

And for the fact, we directed the officers of the Mint to give unto us a distinguished account how much gold and silver hath yearly been brought into the Mint, by the space of six whole years last past, more specially for the last three months succeeding the last proclamation touching the price of gold; to the end we mought by the suddenness of the fall discern whether that proclamation mought be thought the efficient cause of the present scarcity. Upon which account it appears to us, that during the space of six years aforesaid there hath been still degrees of decay in quantity of the silver brought to the Mint, but yet so as within these last three months it hath grown far beyond the proportion of the former time, insomuch as there comes in now little or none at all. And yet notwithstanding it is some opinion, as well amongst the officers of the Mint as the merchants, that the state need be the less apprehensive of this effect, because it is like to be but temporary, and neither the great flush of gold that is come into the Mint since the proclamation, nor on the other side the great scarcity of silver, can continue in proportion as it now doth.

Another point of the fact which we thought fit to examine was, whether the scarcity of silver appeared generally in the realm, or only at the Mint; wherein it was confessed by the merchants, that silver is continually imported into the realm, and is found stirring amongst the goldsmiths and otherwise, much like as in former times, although in respect of the greater price which it hath with the goldsmith it cannot find the way to the Mint. And thus much for the fact.

For the causes with the remedies, we have heard many propositions made, as well by the Lord Knevet, who assisted us in this conference, as by the merchants; of which propositions few were new unto us, and much less can be new to your Lordships; but yet although upon former consultations we are not unacquainted what is more or less likely to stand with your Lordships' grounds and opinions, we thought it nevertheless the best fruit of our diligence to set them down in articles, that your Lordships with more ease may discard or entertain the particulars, beginning with those which your Lordships do point at in your letters, and so descending to the rest.

The first proposition is touching the disproportion of the price between gold and silver, which is now brought to be upon the point of fourteen to one, being before but twelve to one. This we take to be an evident cause of scarcity of silver at the Mint, but such a cause as will hardly receive a remedy; for either your Lordships must draw down again the price of gold, or advance the price of silver: whereof the one is a going back from that which is so lately done, and whereof you have found good effect, and the other is a thing of dangerous consequence in respect of the loss to all moneyed men in their debts, gentlemen in their rents, the king in his customs, and the common subject in raising the price of things vendible. And upon this point it is fit we give your Lordships understanding what the merchants intimated unto us, that the very voicing or suspect of the raising of the price of silver, if it be not cleared, would make such a deadness and retention of money this vacation, as (to use their own words) will be a misery to the merchants: so that we were forced to use protestation that there was no such intent.[1]

The second proposition is touching the charge of coinage; wherein it was confidently avouched by the merchants, that if the coinage were brought from two shillings unto eighteen pence, as it was in Queen Elizabeth's time, the King should gain more in the quantity than he should lose in the price: and they aided themselves with that argument, that the King had been pleased to abate his coinage in the other metal, and found good of it: which argument, though it doth admit a difference, because that abatement was coupled with the raising of the price, whereas this is to go alone, yet nevertheless it seemed the officers of the Mint were not unwilling to give way to some abatement, although they presumed it would be of small effect, because that abatement would not be equivalent to that price which Spanish silver bears with the goldsmith; but yet it may be used as an experiment of state, being revocable at his Majesty's pleasure.

[1] This had not been overlooked in the previous proclamation. "And yet that it may not be conceived that we would make the remedy larger than the inconvenience, we would be thus clearly understood, that we have absolutely concluded with good advice and deliberation not to make any manner of alteration in the price or otherwise of our silver, with which all trades and payments are so much driven and made, as the raising the price thereof would give both colour and cause to raise the price of all commodities and things vendible, which we seek by all means to avoid." 'Book of Proclamations,' p. 251.

The third proposition is concerning the exportation of silver more than in former times, wherein we fell first upon the trade into the East Indies; concerning which it was materially in our opinions answered by the merchants of that company, that the silver which supplies that trade, being generally Spanish moneys, would not be brought in but for that trade, so that it sucks in as well as it draws forth. And it was added likewise, that as long as the Low Countries maintained that trade in the Indies, it would help little though our trade were dissolved, because that silver which is exported immediately by us to the Indies would be drawn out of this kingdom for the Indies mediately by the Dutch: and for the silver exported to the Levant, it was thought to be no great matter. As for other exportation, we saw no remedy but the execution of the laws, specially those of employment being by some mitigation made agreeable to the times. And these three remedies are of that nature, as they serve to remove the causes of this scarcity. There were other propositions of policies and means directly to draw silver to the Mint.

The fourth point thereof was this: It is agreed that the silver which hath heretofore fed the Mint principally hath been Spanish money. This now comes into the realm plentifully, but not into the Mint. It was propounded, in imitation of some precedent in France, that his Majesty would by proclamation restrain the coming in of this money *sub modo*, that is, that either it be brought to the Mint or otherwise to be cut and defaced, because that now it passeth in payments in a kind of currency. To which it was colourably objected, that this would be the way to have none brought in at all, because the gain ceasing the importation would cease; but this objection was well answered, that it is not gain altogether, but a necessity of speedy payment, that causeth the merchant to bring in silver to keep his credit and to drive his trade: so that if the King keep his fourteen days payment at the Mint, as he always hath done, and have likewise his exchangers for those moneys in some principal ports, it is supposed that all Spanish moneys, which is the bulk of silver brought into this realm, would by means of such a proclamation come into the Mint; which may be a thing considerable.

The fifth proposition was this: It was warranted by the laws of Spain to bring in silver for corn or victuals; it was propounded

that his Majesty would restrain exportation of corn *sub modo*, except they bring the silver which resulteth thereof unto his Mint; that trade being commonly so beneficial, as the merchant may well endure the bringing of the silver to the Mint, although it were at the charge of coinage, which it now beareth. Further as incident to this matter, there was revived by the merchants, with some instance, the ancient proposition concerning the erection of granaries for foreign corn, forasmuch as by that increase of trade in corn the importation of silver would likewise be multiplied.

The sixth proposition was that upon all licences of forbidden commodities there shall be a rate set of silver to be brought into the Mint: which nevertheless may seem somewhat hard, because it imposeth upon the subject that which causeth him to incur peril of confiscation in foreign parts. To trouble your Lordships further with discourses which we had of making foreign coins current, and of varying the King's standard to wait upon the variations in other states, and repressing surfeit of foreign commodities, that our native commodities surmounting the foreign may draw in treasure[1] by way of overplus; they be common places so well known to your Lordships, as it is enough to mention them only.

There is only one thing more, which is, to put your Lordships in mind of the extreme excess in the wasting of both metals, both of gold and silver foliate, which turns the nature of these metals, which ought to be perdurable, and makes them perishable, and by consumption must be a principal cause of scarcity in them both; which we conceive may receive a speedy remedy by his Majesty's proclamation.

Lastly, we are humble suitors to your Lordships, that for any of these propositions that your Lordships should think fit to entertain in consultation, your Lordships would be pleased to hear them debated before yourselves, as being matters of greater weight than we are able to judge of. And so craving your Lordships' pardon for troubling you so long, we commend your Lordships to God's goodness.

6.

About this time Salisbury's health began to fail. His death,

[1] *Treasury* in MS., the body of which shows no traces of Bacon's hand.

which took place shortly after, made a considerable change in Bacon's position by bringing him into freer and more frequent personal communication with the King, and his correspondence becomes thenceforth more continuous and valuable. To avoid unnecessary interruptions in setting it forth, it will be convenient to make a place here for two or three papers to which I cannot assign an exact date, and which do not require to be read in connexion with the particular business of the time.

The first is addressed to the Lord Mayor, and relates to some private cause in which Bacon had been engaged as a professional adviser. But I have not been able to find any further particulars bearing upon it, and must therefore leave it to tell its own story. It comes from his own collection.

A LETTER TO MY LORD MAYOR UPON A PROCEEDING IN A PRIVATE CAUSE.[1]

My very good Lord,

I did little expect, when I left you last, that there would have been a proceeding against Mr. Bernard to his overthrow: wherein I must confess myself to be in a sort accessary; because he relying upon me for counsel, I advised that course which he followed. Wherein now I begin to question myself, whether in preserving my respects unto your Lordship and the rest, I have not failed in the duty of my profession towards my client. For certainly if the words had been heinous, and spoken in a malicious fashion, and in some public place, and well proved, and not a prattle in a tavern, caught hold of by one who (as I hear) is a detected sycophant (Standish, I mean), I know not what could have been done more than to impose upon him a grievous fine, and to require the levying of the same, and to take away his means of life by his disfranchisement, and to commit him to a defamed prison during Christmas, in honour whereof the prisoners in other courts do commonly of grace obtain some enlargement. This rigour of proceeding (to tell your Lordship and the rest, as my good friends, my opinion plainly) tendeth not to strengthen authority, which is best supported by love and fear intermixed, but rather to make people discontented and servile; especially when such punishment is inflicted for words, not by rule of law, but by a jurisdiction of discretion, which would evermore be moderately used. And I pray God,

[1] Addl. MSS. 5503, fo. 42.

whereas Master Recorder, when I was with you, did well and wisely put you in mind of the admonition you often received from my Lords, that you should bridle unruly tongues, that those kind of speeches and rumours whereunto those admonitions do refer (which are concerning the State and [the] honour thereof) do not pass too licentiously in the city unpunished, while these words which concern your particular are so straitly enquired into and punished with such extremity. But these things your own wisdoms (first or last) will best represent to you. My writing unto you at this time is to the end, that howsoever I do take it somewhat unkindly that my mediation prevailed no more, yet I might preserve that further respect that I am willing to use unto such a state, in delivering my opinion unto you freely, before I would be of counsel, or move any thing that should cross your proceedings; which notwithstanding (in case my client can receive no relief at your hands) I must and will do; continuing nevertheless in other things my wonted good affections to yourselves and your occasions.

7.

The next is an ordinary letter of recommendation, addressed to the Masters of the Requests in favour of one who had a suit in their Court. It has been preserved by some accident among the State Papers, and being signed by Bacon must find a place somewhere; though I am not aware that it throws any light upon anything, unless it be the fashion of the times in such matters.

To my honourable friends, the Masters of his Majesty's Court of Requests, these, etc.[1]

After my hearty commendations. At the request of this bearer Mr. Edwin Cottwin an ancient follower and well-willer to my name and family, I have considered of a suit of his depending before you for the recovery of certain rents due unto him for divers years past, and detained from him only upon a strained construction of extreme law. And finding the honesty of the man and the equity of his cause to deserve favour, considering that the main matter (which is the sum in demand) is freely acknowledged, I could do no less than recommend him

[1] S. P. Dom. James I., A.D. 1610. Original, but not in Bacon's own hand as far as 'resting.'

unto your good discretions, desiring you in regard of his great loss and troubles to afford him that which you deny to no man, lawful favour and expedition, which I shall be always ready thankfully to acknowledge by such friendly offices as shall fall within my compass. And so I leave you to God's safe tuition, resting

Your very loving friend,

FR. BACON.

8.

The last is a thing of greater value. It shows Bacon for the first time in a judicial position, and is connected with a small measure of legal reform, which was probably of his own advising.

It may be remembered that among his memoranda on the 25th of July 1608 one was "to make somewhat of his suit and reference touching the place of the Marshalsea, either for himself or for some other."[1] The Court of the Marshalsea was a very ancient court, held by the Steward and Marshal of the King's House; who appears originally to have had a general jurisdiction over all offences committed within a circle of twelve miles round the settled mansion of the King. But in the 28th year of Edward I. his authority was defined and limited. By the famous *Articuli super chartas* it was ordained that from thenceforth the Stewards and Marshals should "not hold plea of Freehold, neither of Debt, nor of Covenant, nor of any Contract made between the King's people; but only of trespass done within the House, and of other trespasses done within the Verge, and of Contracts and Covenants that one of the King's House shall have made with another of the same House, and in the same House, and none other where":—that they should "plead no Plea of Trespass, other than that which shall be attached by them before the King depart from the Verge where the Trespass shall be committed; and shall plead them speedily from day to day," etc.:—and that from thenceforth the Steward should "not take cognizance of Debts nor of other things, but of people of the same House," nor "hold none other Plea by Obligation made at the distress of the Steward and of the Marshals."[2] Now with regard to the jurisdiction in case of contracts and covenants, the limits of the authority of the Court were clearly defined. But with regard to trespasses, there was room for doubt whether its authority extended to *all* trespasses done within the Verge, or only to those in which both or one of the parties belonged to the King's House. Upon this point dis-

[1] Supra, p. 44.

[2] Statutes of the Realm, vol. i. p. 138.

putes had been raised in the Common Law Courts: and there was one at this time pending. An action had been brought against certain officers of the Marshalsea Court for executing a writ: the plaintiff pleading that he was not of the King's House. And though the case had not yet been finally decided, it was easy to guess, when such a question came before Sir Edward Coke as one of the Common Law Judges, which way the decision would go.

Whether Bacon held a brief in this case does not appear: for Coke's report (Part X. p. 68), which gives the substance of the arguments, does not mention the names of any of the Counsel. But it would naturally bring the question under his consideration, especially as the proceedings of the Marshalsea Court had been the subject of debates in Parliament; and it seems probable that the course which the King took in the matter was taken by his advice. The Steward, who presided over the Court, was at that time Sir Thomas Vavasor, marshal of the King's Household: and it was obvious to suggest that for the due discharge of such an office the assistance of a lawyer was wanted. Accordingly it seems that Bacon himself was joined with him in it. For in a "list of some of the Stewards of the Marshalsea," appended to an essay on the history of the Court,[1] the name of "Sir Francis Bacon, Solicitor General" is given under the date "8 Jac:" which was 1610. But though the presidency of a lawyer would save the Court from getting into trouble by exceeding its jurisdiction, it would reduce that jurisdiction within limits so narrow that the Court would be of little use. Bacon was always of opinion that justice was best when it was to be had near hand: and it may easily be supposed that when asked how this dispute about jurisdiction would be best settled, he would advise to settle it by *establishing* the authority of this Court rather than by abandoning it. It was within the power of the Prerogative, as then interpreted, to erect a new Court of Record: and on the 8th of June 1611, James created by Patent a new Court,—to be called "the Court of the Verge;" for reasons which are fully explained in the preamble—and were most likely drawn up by Bacon himself.

Whereas we have been informed of some complaints and griefs concerning the Court of Marshalsea made as well in Parliament as otherwise, and thereupon have been moved to give direction that the ground of such complaints should be examined and considered, and thereby have discovered that they have not arisen so much out of the nature of the jurisdiction, where the suitors have speedy justice from day to day and have likewise the benefit of special gaols and speedy trials, as in respect

[1] 'Essay towards a History of the Ancient Jurisdiction of the Marshalsea.' Lond., 1812.

partly of the fee commonly called the Knight Marshal's fee, which is great and laid upon the defendants, and yet nevertheless is the ancient fee which hath been time out of mind used; and partly through some courses of vexation in the exercise of that jurisdiction, as arrests in time of progress, when the suitor cannot by any possibility have the effect of his suit, by reason of the removes of the Court: and likewise by the not awarding of the costs to the full against the Plaintiff where the suit appeareth to be but upon vexation; and also by the multitude of the Knight Marshal's men that make a gain upon arrests by stirring of suits upon malice or frivolous causes: And whereas the jurisdiction of the said ancient Court of Marshalsea is defective in power to hold plea of many personal actions, so as our loving subjects within the Verge cannot there have the like ease in their suits as the inhabitants of other inferior liberties have: We have thought it the most expedient way by these our letters patents, chiefly for the ease of our said loving subjects within the Verge, by consent of the said Knight Marshal, to abate in great part his fee and by special ordinance and provision to repress all points which have and may make the said ancient Court of Marshalsea grievous; and by other letters patents of the date of these presents to erect a new Court within the Verge for personal actions which concern persons not being or which hereafter shall not be of our household, to be before the said Knight Marshal and some fit person learned in the law, and therein to grant the said Knight Marshal such fees as may be easy for the subject to bear, and yet in some measure by reason of the said actions countervail his loss of fees abated as aforesaid; and therefore have ordained and constituted, etc.

The Patent follows, with a full description in due form of the duties and authorities of the new Court, the fees which may be lawfully taken by the several officers, the times and places of sitting, etc.: and appointing as Judges for the present Sir Thomas Vavasor and Sir Francis Bacon."[1]

It was, I presume, upon the first opening of this Court (the date of which I have not succeeded in discovering) that Bacon delivered the following charge to the Grand Jury.

The measure appears to have been a satisfactory one, for we hear of no more complaints of the Marshalsea Court during Bacon's life. The new Court under these Letters Patent continued till 6 Charles I.[2] and was afterwards renewed by Charles II.: on which occasion, I suppose, Bacon's charge was printed as a separate pamphlet,[3] with the motto—*Lex vitiorum emendatrix, virtutum commendatrix est.*

The copy which follows is taken from a manuscript corrected in places by Bacon himself; though it still contains many obvious errors which, with the help of previous editors, I have myself corrected.

[1] Rolls House: Patents 9 James I. Pars 7ª.

[2] 'Essay towards a history of the ancient jurisdiction of the Marshalsea Court,' p. 28.

[3] London, 1662.

The Judicial Charge of Sir Francis Bacon, Knight, the King's Solicitor-General upon the Commission of Oyer and Determiner for the Verge.[1]

You are to know and consider well the duty and service to which you are called, and whereupon you are by your oath charged. It is the happy estate and condition of the subject of this realm of England, that he is not to be impeached in his life lands or goods by flying rumours, or wandering fames and reports, or secret and privy inquisitions; but by the oath and presentment of men of honest condition, in the face of justice. But this happy estate of the subject will turn to hurt and inconvenience, if those that hold that part which you are now to perform shall be negligent and remiss in doing their duty. For as of two evils, it were better mens doings were looked into overstrictly and severely, than that there should be a notorious impunity of malefactors: as was well and wisely said of ancient time, a man were better live where nothing is lawful, than where all things are lawful. This therefore rests in your care and conscience, forasmuch as at you justice begins, and the law cannot pursue and chase offenders to their deserved fall, except you first put them up and discover them, whereby they may be brought to answer; for your verdict is not concluding to condemn, but it is necessary to charge, and without it the court cannot proceed to condemn.

Considering therefore that ye are the eye of justice, ye ought to be single, without partial affection, watchful, not asleep, or false asleep in winking at offenders, and sharp-sighted to proceed with understanding and discretion: for in a word, if you shall not present unto the court all such offences, as shall appear unto you either by evidence given in, or otherwise (mark what I say) of your own knowledge, which have been committed within the Verge, which is as it were the limits of your survey, but shall smother and conceal any offence willingly, then the guiltiness of others will cleave to your consciences before God; and besides you are answerable (in some degree) to the King and his law for such your default and suppression. And therefore take good regard unto it, you are to serve the King and his people, you are to keep and observe your oath, you are to acquit yourselves.

[1] Harl. MSS. 6797, f. 161. The title has been inserted in Bacon's hand.

But there is yet more cause why you should take more special regard to your presentments, than any other grand juries within the counties of this kingdom at large: for as it is a nearer degree and approach unto the King, which is the fountain of justice and government, to be the King's servant, than to be the King's subject; so this commission, ordained for the King's servants and household, ought in the execution of justice to be exemplary unto other places. David saith, who was a king, *The wicked man shall not abide in my house;* as taking knowledge that it was impossible for kings to extend their care to banish wickedness over all their land or empire, but yet at least they ought to undertake to God for their house.

We see further that the law doth so esteem the dignity of the King's settled mansion-house, as it hath laid unto it a plot of twelve miles round (which we call the Verge), to be subject to a special and exempted jurisdiction depending upon his person and great officers. This is as a half-pace or carpet spread about the King's chair of estate, which therefore ought to be cleared and voided more than other places of the kingdom; for if offences shall be shrouded under the King's wings, what hope is there of discipline and good justice in more remote parts? We see the sun when it is at the brightest, there may be perhaps a bank of clouds in the north or the west or remote regions, but near his body few or none; so where the King cometh, there should come peace and order, and an awe and reverence in mens hearts.

And this jurisdiction was in ancient time executed, and since by statute ratified, by the Lord Steward with great ceremony, in the nature of a peculiar King's Bench for the Verge; for it was thought a kind of eclipsing to the King's honour, that where the King was, any justice should be sought but immediately from his own officers. But in respect that office was oft void, this commission hath succeeded; which change I do not dislike; for though it hath less state, yet it hath more strength legally. Therefore I say, you that are a jury of the Verge should lead and give a pattern to others in the care and conscience of your presentments.

Concerning the particular points and articles whereof you shall inquire, I will help your memory and mine own with order; neither will I load you, or trouble myself, with every branch of

several offences, but stand upon those that are principal and most in use. The offences therefore that you are to present are of four natures.

I. The first, such as concern God and his church.

II. The second, such as concern the King and his estate.

III. The third, such as concern the King's people and are capital.

IV. The fourth, such as concern the King's people not capital.

God and his church.

The service of Almighty God, upon whose blessing the peace, safety, and good estate of King and kingdom doth depend, may be violated and God dishonoured in three manners; by profanation, by contempt, and by division or breach of unity.

Profanations.

First, if any man hath depraved or abused in word or deed the blessed sacrament, or disturbed the preacher or congregation in the time of divine service; or if any have maliciously stricken with weapon, or drawn weapon in any church or church-yard; or if any fair or market have been kept in any church-yard; these are profanations within the purview of several statutes, and these you are to present: for holy things, actions, times, sacred places, are to be preserved in reverence and divine respect.

Contempts v^t recusancy.

For contempts of our church and service, they are comprehended in that known name, which too many, if it pleased God, do[1] bear, Recusancy; which offence hath many branches and dependencies. The wife-recusant, she tempts; the church papist, he feeds and relieves; the corrupt schoolmaster, he soweth tares; the dissembler, he conformeth and doth not communicate. Therefore if any person, man or woman, wife or sole, above the age of sixteen years, not having some lawful excuse, have not repaired to church according to the several statutes, the one for the weekly, the other for the monthly repair, you are to present both the offence and the time how long. Again, such as maintain, relieve, keep in service of livery recusants, though themselves be none, you are likewise to present; for these be like the roots of nettles, which sting not themselves, but bear and maintain the stinging leaves: so of[2] any that keepeth a schoolmaster that comes not to church, or is not allowed by the bishop; for that infection may spread far: so such recusants as have been con-

[1] *to* in MS. An interlinear correction, which seems to leave an error somewhere.
[2] *if* in MS.

victed and conformed, and have not received the sacrament once a year; for that is the touchstone of their true conversion. And of these offences of recusancy take you special regard. Twelve miles from court is no region for such subjects. In the name of God, why should not twelve miles about the King's chair be as free from papist-recusants, as twelve miles from the city of Rome (the pope's chair) is from protestants? There be hypocrites and atheists, and so I fear there be amongst us; but no open contempt of their religion is endured. If there must be recusants, it were better they lurked in the country, than here in the bosom of the kingdom.

Breach of unity.

For matter of division and breach of unity, it is not without a mystery that Christ's coat had no seam, nor no more should the Church if it were possible. Therefore if any minister refuse to use the book of common prayer, or wilfully swerveth in divine service from that book; or if any person whatsoever do scandalize that book, and speak openly and maliciously in derogation of it; such men do but make a rent in the garment, and such are by you to be inquired of. But much more such as are not only differing but in a sort opposite unto it, by using a superstitious and corrupted form of divine service; I mean, such as say or hear mass.

These offences which I have recited to you are against the service and worship of God. There remain two which likewise pertain unto the dishonour of God; the one is the abuse of his name by perjury; the other is the adhering to God's declared enemies, evil and outcast spirits, by conjuration and witchcraft.

Perjury.

For perjury, it is hard to say whether it be more odious to God or pernicious to man; for an oath, saith the Apostle, is the end of controversies: if therefore that boundary of suits be taken away or mis-set, where shall be the end? Therefore you are to inquire of wilful and corrupt perjury in any of the King's courts, yea, of court-barons and the like, and that as well of the actors, as of the procurer and suborner.

Conjuration and witchcraft.

For witchcraft, by the former law it was not death, except it were actual and gross invocation of evil spirits, or making covenant with them, or taking away life by witchcraft. But now by an act in his Majesty's times, charms and sorceries in certain cases of procuring of unlawful love or bodily hurt, and some others, are

made felony the second offence; the first being imprisonment and pillory.

And here I do conclude my first part concerning religion and ecclesiastical causes: wherein it may be thought that I do forget matters of supremacy, or of Jesuits, and Seminaries, and the like, which are usually sorted with causes of religion. But I must have leave to direct myself according to my own persuasion, which is, that, whatsoever hath been said or written on the other side, all the late statutes which inflict capital punishment upon extollers of the Pope's supremacy, deniers of the King's supremacy, Jesuits and Seminaries, and other offenders of that nature, have for their principal scope, not the punishment of the error of conscience, but the repressing of the peril of the estate. This is the true spirit of these laws. And therefore I will place them under my second division, which is of offences that concern the King and his estate, to which now I come.

Supremacy placed with offences of State.

These offences therefore respect either the safety of the King's person or the safety of his estate and kingdom, which though they cannot be dissevered in deed, yet they may be distinguished in speech. First, then, if any have conspired against the life of the King, which God have in his custody, or of the Queen's majesty, or of the most noble Prince their eldest son, the very compassing and inward imagination thereof is high treason, if it can be proved by any fact that is overt. For in the case of so sudden, dark, and pernicious and peremptory attempts, it were too late for the law to take a blow before it gives; and this high treason of all other is most heinous, of which you shall inquire, though I hope there be no cause.

The K. and the state.

The K.'s person.

There is another capital offence that hath an affinity with this, whereof you here within the Verge are most properly to inquire. The King's privy-council are as the principal watch over the safety of the King, so as their safety is a portion of his. If therefore any of the King's servants within his cheque-roll (for to them only the law extends) have conspired the death of any the King's privy-council, this is felony, and thereof you shall inquire.

Privy Council.

And since we are now in that branch of the King's person, I will speak also of the King's person by representation, and the treasons which touch the same.

Representation of person.

The King's person and authority is represented in three things;

in his seals, in his monies, and in his principal magistrates. If therefore any have counterfeited the King's great seal, privy seal, or seal manual; or counterfeited, clipped, or scaled his monies, or other monies current, this is high treason. So is it to kill certain great officers or judges executing their office.

The state.

We will pass now to those treasons which concern the safety of the King's estate, which are of three kinds, answering to three perils which may happen to an estate. These perils are, foreign invasion, open rebellion and sedition, and privy practice to alienate and estrange the hearts of the subjects, and to prepare them either to adhere to enemies, or to burst out in tumults and commotions of themselves.

Invasion and rebellion.

Therefore if any person have solicited or procured any invasion from foreigners: or if any have combined to raise and stir the people to rebellion within the realm; these are high treasons, tending to the overthrow of the estate of this commonwealth, and to be inquired of.

Alienation of hearts.

The third part of practice hath divers branches, but one principal root in these our times, which is the vast and overspreading ambition and usurpation of the see of Rome; for the Pope of Rome is according to his late challenges and pretences become a competitor and corrival with the King for the hearts and obediences of the King's subjects: he stands for it, he sends over his love-tokens and brokers (under colour of conscience) to steal and win away the hearts and allegiances of the people, and to make them as fuel ready to take fire upon any his commandments. This is that yoke which this kingdom hath happily cast off, even at such time when the popish religion was nevertheless continued, and that divers states which are the Pope's vassals do likewise begin to shake off.

Supremacy, treason, and Jesuits, etc.

If therefore any person have maintained and extolled the usurped authority of the Bishop of Rome within the King's dominions, by writing, preaching, or deed, advisedly, directly, and maliciously; or if any person have published or put in use any of the Pope's bulls or instruments of absolution; or if any person have withdrawn and reconciled any of the King's subjects from their obedience, or been withdrawn and reconciled: or if any subject have refused the second time to take the oath of supremacy lawfully tendered; or if any Jesuit or seminary come and abide within this realm; these are by several statutes made

case of high treason: the law accounting these things as preparatives, and the first wheels and secret motions of seditions and revolts from the King's obedience. Of these you are to inquire, both of the actors and of their abettors, comforters, receivers, maintainers, and concealers, which in some cases are traitors as well as the principal, in some cases in *præmunire*, in some other in misprison of treason (which I will not stand to distinguish), and in some other, felony; as namely that of the receiving and relieving of Jesuits and priests. The bringing in and dispersing of *Agnus Dei's*, crosses, pictures, or such trash, is likewise *præmunire:* and so is the denial to take the oath of supremacy the first time. Agnus Dei.

And because in the disposition of a state to troubles and perturbations, military men are most tickle and dangerous; therefore if any of the King's subjects go over to serve in foreign parts, and do not first endure the touch, that is take the oath of allegiance; or if he have borne office in any army, and do not enter into bond with sureties as is prescribed; this is made felony, and such as you shall inquire. Militar.

Lastly, because the vulgar people are sometimes led with vain and fond prophecies; if any such shall be published to the end to move stirs or tumults, this is not felony, but punished by a year's imprisonment and loss of goods; and of this also shall you inquire. You shall likewise understand that the escape of any prisoner committed for treason, is treason; whereof you are likewise to inquire. Prophecies.

Now come I to the third part of my division; that is, those offences which concern the King's people, and are capital; which nevertheless the law terms offences against the crown, in respect of the protection that the King hath of his people, and the interest he hath in them and their welfare; for touch them, touch the king. These offences are of three natures. The people, capital.

The first concerneth the conservation of their lives.

The second, of honour and honesty of their persons and families.

And the third, of their substance.

First for life, I must say unto you in general, that life is grown too cheap in these times. It is set at the price of words, and every petty scorn or disgrace can have no other reparation; Life.

nay so many men's lives are taken away with impunity, that the very life of the law is almost taken away, which is the execution; and therefore though we cannot restore the life of those men that are slain, yet I pray let us restore the law to her life by proceeding with due severity against the offenders; and most especially this plot of ground (which as I said is the King's carpet) ought not to be stained with blood, crying in the ears of God and the King. It is true nevertheless that the law doth make divers just differences of life taken away, but yet no such differences as the wanton humours and braveries of men have under a reverend name of honour and reputation invented.

The highest degree is where such a one is killed, unto whom the offender did bear faith and obedience; as the servant to the master, the wife to the husband, the clerk to the prelate; and I shall ever add (for so I conceive of the law) the child to the father or the mother. And this the law terms petty treason.

The second is where a man is slain upon forethought malice, which the law terms murther; and it is an offence horrible and odious, and cannot be blanched nor made fair, but foul.

The third is where a man is killed upon a sudden heat or affray, whereunto the law gives some little favour, because a man in fury is not himself, *ira furor brevis*, wrath is a short madness. And the wisdom of law in his Majesty's time hath made a subdivision, of the stab given where the party stabbed is out of defence and had not given the first blow, from other manslaughters.

The fourth degree is that of killing a man in the party's own defence or by misadventure, which, though they be not felonies, yet nevertheless the law doth not suffer them to go unpunished: because it doth discern some sparks of a bloody mind in the one, and of carelessness in the other.

And the fifth is where the law doth admit a kind of justification, not by plea, (for a man may not, that hath shed blood, front the law with pleading not guilty); but when the case is found by verdict, being disclosed upon the evidence; as where a man in the king's highway and peace is assailed to be murthered or robbed; or when a man defends his house, which is his castle, against unlawful violence; or when a sheriff or minister of justice is resisted in the execution of his office; or when the patient dieth in the surgeon's

hands, upon cutting or otherwise. For these cases the law doth privilege, because of the necessity, and because of the innocency of the intention.

Thus much for the death of man, of which cases you are to inquire, together with the accessories before and after the fact.

For the second kind, which concerns the honour and chastity of persons and families, you are to inquire of the ravishment of women, of the taking of women out of the possession of their parents or guardians against their will, or marrying them or abusing them; of double marriages, where there was not first seven years absence, and no notice that the party so absent was alive, and other felonies against the honesty of life. Honesty of life.

For the third kind, which concerneth men's substance, you shall inquire of burglaries, robberies, cutting of purses, and taking of anything from the person, and generally other stealths, as well such as are plain as those that are disguised, whereof I will by and by speak. But first I must require you to use diligence in presenting especially those purloinings and embezzlements, which are of plate, vessel, or whatsoever within the King's house. The King's house is an open place; it ought to be kept safe by law, and not by lock, and therefore needeth the more severity. Substance.

Now for coloured and disguised robberies, I will name two or three of them. The purveyor that takes without warrant is no better than a thief, and it is felony. The servant that hath the keeping of his master's goods and goeth away with them, though he came to the possession of them lawfully, it is felony. Of these you shall likewise inquire principals and accessories. The voluntary escape of a felon is also felony.

For the last part, which is of offences concerning the people not capital, they are many, but I will select only such as I think fittest to be remembered unto you; still dividing, to give you the better light. They are of four natures. The people, not capital.

The first is matter of force and outrage.

The second matter of fraud and deceit.

The third public nuisances and grievances.

The fourth breach and inobservance of certain wholesome and politic laws for government.

For the first, you shall inquire of riots and unlawful assemblies, of forcible entries and detainers with force; and properly Force.

of all assaults, striking, drawing weapon, or other violence within the King's house and the precincts thereof. For the King's house, from whence example of peace should flow unto the furdest parts of the kingdom, as the ointment of Aaron's head to the skirts of his garment, ought to be sacred and inviolate from force and brawls, as well in respect of reverence to the place as in respect of danger of greater tumult, and of ill example to the whole kingdom. And therefore in that place all should be full of peace, order, regard, forbearance, and silence.

Besides open force, there is a kind of force that cometh with an armed hand, but disguised, that is no less hateful and hurtful; and that is, abuse and oppression by authority. And therefore you shall inquire of all extortions in officers and ministers; as Sheriffs, Bailiffs of hundreds, Escheators, Coroners, Constables, Ordinaries, and others, who by colour of office do poll the people.

Fraud. For frauds and deceits, I do chiefly commend to your care the frauds and deceits in that which is the chief means of all just contract and permutation, which is weights and measures; wherein, although God hath pronounced that a false weight is an abomination, yet the abuse is so common and so general, (I mean of weights, and I speak it upon knowledge and late examination,) that if one were to build a church, he should need but false weights, and not seek them far off; the piles of brass to make the bells, and the weights of lead to make the battlements; and herein you are to make special inquiry, whether the clerk of the market within the verge, to whom properly it appertains, hath done his duty.

Nuisance. For nuisances and grievances, I will for the present only single out one, that ye present the decays of highways and bridges. For where the majesty of a king's house draws recourse and access, it is both disgraceful to the king and discaseful to the people, if the ways near-abouts be not fair and good; wherein it is strange to see the chargeable pavements causeways in the avenues and entrances of the towns abroad beyond the seas; whereas London, the second city (at the least) of Europe, in glory, in greatness, and in wealth, cannot be discerned by the fairness of the ways, though a little perhaps by the broadness of them, from a village.

Breach of Statutes. For the last part (because I pass these things over briefly) I will make mention unto you of three laws.

The one concerning the king's pleasure.

The second concerning the people's food.

And the third concerning wares and manufactures.

King's pleasure.

You shall therefore inquire of the unlawful taking partridges and pheasants or fowl, the destruction of the eggs of the wild-fowl, the killing of hares or deer, and the selling of venison or hares: for that which is for exercise and sport and courtesy should not be turned to gluttony and sale victual.

Food.

You shall also inquire whether bakers and brewers keep their assize, and whether as well they as butchers, innholders and victuallers, do sell that which is wholesome, and at reasonable prices, and whether they do link and combine to raise prices.

Manufactures.

Lastly, you shall inquire whether the good statute be observed, whereby a man may have that he thinketh he hath, and not be abused or mis-served in that he buys: I mean that statute that requireth that none use any manual occupation but such as have been seven years apprentice to it; which law being generally transgressed, makes the people buy in effect chaff for corn; for that that is mis-wrought will mis-wear.

There be many more things inquirable by you throughout all the former parts, which it were overlong in particular to recite. You may be supplied either out of your own experience, or out of such bills and informations as shall be brought unto you, or upon any questions that you shall demand of the court, which will be ready to give you any further direction as far as is fit: but these which I have gone through are the principal points of your charge, which to present you have taken the name of God to witness, and in the name of God perform it.

CHAPTER VIII.

A.D. 1612. ÆTAT. 52.

1.

THE consultation about the King's affairs which was to succeed the dissolution of the last Parliament had not thus far brought forth much fruit. Neither the raising of the price of gold pieces, nor the erection of the new order of Baronets, can have afforded any material relief to the Exchequer; for the first did not involve a fresh coinage, and the fruits of the other were appropriated to the colonization of Ulster. Privy seals and loans from the City were merely borrowings for the present at the expense of the future: and the total result of Salisbury's financial administration appears to have been the halving of the debt at the cost of almost doubling the deficiency. He died on the 24th of May, after a few months' illness, leaving the debt 500,000*l.* and the ordinary annual expenditure in excess of the ordinary annual revenue by 160,000*l.*

Bacon felt that the occasion was a critical one. It was plain that everything had been going wrong of late. But Salisbury had had so much to do with everything, that his death, which though not sudden had been preceded by no retirement from business or transfer of power to other hands, left a large space clear for a thorough rearrangement. The place of Secretary as well as Treasurer was now vacant; and there was no man (with the exception perhaps of Coke on the Bench) whose personal qualities, combined with his position, gave him an overruling power even in his own department. But this state of things could not be expected to last long. The new streams would soon find new channels from which it would again be difficult to divert them. To rectify the relation between the King and his people, which the dissolution of the late Parliament had left quite out of joint, it was necessary to have another Parliament with which he could proceed in harmony. And to make this possible, it was necessary not only that he should present himself in a new character to his subjects, but that they should feel that the new character was his own, and that that in which he had last appeared

was not his own. If he could but have been persuaded, and been able, to seize the moment of Salisbury's death for an entire change in his own ways—if he could from that moment have laid his former character aside and shown himself a new man,—he might I think have succeeded. It would have been thought that his true nature had been obscured till then by his minister, and appeared now in its natural lustre. Nor is it impossible that a *successful* experiment of that kind might really and permanently have changed him. For certainly his untaught sympathies and natural impulses were always with the people and human nature, and I cannot help thinking that if he had once tried the experiment of wearing his prerogative a little more carelessly, he would have found it so much more comfortable and becoming that he would have continued the fashion. But if this was to be done, it must be done suddenly. It is in times of change that new impressions are wrought in so as to last: when they have been allowed to settle, the new will hardly incorporate with the old.

Now therefore was the time: and now once more Bacon was tempted to step out of his course. Hitherto the very few (and I hope I may now say the very modest) applications which he had made to the King on his own behalf had been merely for ordinary advancement in the regular course of his profession. But upon Salisbury's death it could not but occur to him that the King might have much more important use of him as a councillor of State than merely as a State lawyer. The King had in fact to choose a new prime minister; which in this case was almost as much as forming a new administration. Whom had he to choose from? He had in his Council the Lord Chancellor; a man bred under Elizabeth, but now nearly worn out, chiefly occupied with the business of his Court, and never much of a politician. He had the Earl of Northampton; a man in high repute for learning and talent, especially as a writer, (being indeed a great artist with his pen according to the fashionable taste of the day), but unpopular, from a suspected leaning to Popery, and not a man of any real judgment or ability (so far as I can make him out), nor patriotic in his ends, nor scrupulous in his methods of pursuing them. He had Robert Carre, now Lord Rochester; an inexperienced and uninstructed youth, given to pleasure, greedy of gain, intoxicated by his sudden elevation, disliked by the people because he was a Scotchman and getting all the good things, and having an interest in the King's affections which gave him an influence over his counsels greater probably than the King was aware of. He had the Earl of Suffolk; a great courtier, and a magnificent sort of person, but of whose ideas (if he had any) we know

nothing. The rest were either instruments, or ciphers, or quiet people who minded only their own business and did not affect to interfere with the management of the State. By far the best head (I take it) in James's Council was his own: and a very sufficient head it would have been if it had been applied steadily to its work. But he was far too easy a master both to himself and to those about him. He was for ever excusing himself from following his own judgment—from doing what he would have advised any one else to do in the same situation—when it was opposed by his favourites or disagreeable to himself; and on that account, in such times as he had fallen upon,—with a debt of 500,000*l.*, an annual deficiency of 160,000*l.*, and a House of Commons newly awakened to a sense as well of his necessities as of their own powers, and determined to make the most of their advantage,—he was no fit man to be his own prime minister.

What course Bacon actually took in this exigency, I cannot certainly say: for in a matter which requires delicate walking a man will sometimes draw up a letter in due form by way of experiment, to see how it looks on paper, and keep it back if he does not like the look of it: but the course he meditated and *wished* to take may be gathered from the following letters,—two of them certainly written at this time, and the third probably not long after,—and all found among the drafts and copies preserved in his own cabinet. That none of the three was included in his "register-book of letters," may be sufficiently explained perhaps by their private and confidential character, without supposing that they were ultimately withheld. And if they *were* withheld, it may have been only because he had had an opportunity in the mean time of speaking to the King in private; which it would appear from one of the "apophthegms" that he really had upon this very occasion.[1] But however that may be, his private thoughts and intentions are what we are chiefly concerned with, and of these they afford the best evidence.

The first is evidently the beginning of a letter, with the progress of which he was so ill satisfied that he laid it by and began another. It is a rough draft, written in his own hand and partly in Greek

[1] "Soon after the death of a great officer who was judged no advancer of the King's matters, the King said to his Solicitor Bacon, who was his kinsman, 'Now tell me truly, what say you of your cousin that is gone?' Mr. Bacon answered 'Sir, since your Majesty doth charge me, I'll e'en deal plainly with you, and give you such a character of him as if I were to write his story. I do think he was no fit counsellor to make your affairs better; but yet he was fit to have kept them from growing worse.' The King said 'on my so'l man, in the first thou speakest like a true man, and in the latter like a kinsman.' (Lit. and Prof. Works, ii. p. 175.) We must not however infer too much from the wording of this apophthegm, for it comes from the collection in the *Baconiana*, many of which, I suspect, have too much of the editor in them.

characters—a precaution which he took occasionally when he wished to keep a writing more private; and has the following docket, also in his own hand.

THE BEGINNING OF A LETTER TO THE KING IMMEDIATELY AFTER MY LORD TREASURER'S DECEASE.[1]

May 29, 1612.

It may please your Majesty,

If I shall seem in these few lines to write *majora quam pro fortuna*, it may please your Majesty to take it to be an effect not of presumption but of affection. For of the one I was never noted; and for the other I could never shew it hitherto to the full; having been as a hawk tied to another's fist, that mought sometimes bait and proffer but could never fly. And therefore if as it was said to one that spake great words, *Amice, verba tua desiderant civitatem*, so your Majesty say to me, "Bacon, your words require a place to speak them;" I must answer, that place or not place is in your Majesty to add or refrain: and though I never go higher but to Heaven, yet your Majesty——

The next is probably the letter which he substituted; and either sent, or wrote with the intention of sending. Whether sent or not, it is one of the most important in the collection; for it proves unquestionably that the only remedy for the King's difficulties which Bacon would at this time have advised him to seek was to be sought through Parliament.

This is only a copy; but it is a contemporary copy, made by one of his own scribes. It has no flyleaf: and the indorsement, which is in a comparatively modern hand, was probably copied from the original docket. It runs thus:—

31 MAY: LETTER TO THE KING, IMMEDIATELY AFTER THE LORD TREASURER'S DEATH.[2]

It may please your excellent Majesty,

I cannot but endeavour to merit, considering your preventing graces, which is the occasion of these few lines.

Your Majesty hath lost a great subject and a great servant. But if I should praise him in propriety, I should say that he

[1] Lambeth MSS. Gibson Papers, vol. viii. fo. 6.
[2] Gibson Papers, vol. viii. f. 7.

was a fit man to keep things from growing worse but no very fit man to reduce things to be much better. For he loved to have the eyes of all Israel a little too much upon himself, and to have all business still under the hammer and like clay in the hands of the potter, to mould it as he thought good; so that he was more *in operatione* than *in opere*. And though he had fine passages of action, yet the real conclusions came slowly on. So that although your Majesty hath grave counsellors and worthy persons left, yet you do as it were turn a leaf, wherein if your Majesty shall give a frame and constitution to matters, before you place the persons, in my simple opinion it were not amiss. But the great matter and most instant for the present, is the consideration of a Parliament, for two effects: the one for the supply of your estate; the other for the better knitting of the hearts of your subjects unto your Majesty, according to your infinite merit; for both which, Parliaments have been and are the antient and honourable remedy.

Now because I take myself to have a little skill in that region, as one that ever affected that your Majesty mought in all your causes not only prevail, but prevail with satisfaction of the inner man; and though no man can say but I was a perfect and peremptory royalist, yet every man makes me believe that I was never one hour out of credit with the lower house: my desire is to know, whether your Majesty will give me leave to meditate and propound unto you some preparative remembrances touching the future Parliament.

Your Majesty may truly perceive, that, though I cannot challenge to myself either invention, or judgment, or elocution, or method, or any of those powers, yet my offering is care and observance: and as my good old mistress was wont to call me her watch-candle, because it pleased her to say I did continually burn (and yet she suffered me to waste almost to nothing), so I must much more owe the like duty to your Majesty, by whom my fortunes have been settled and raised. And so craving pardon, I rest

Your Majesty's most humble servant devote,

F. B.

The exact date of the third is uncertain. It is a rough draft in Bacon's own handwriting, and whether it ever proceeded further we

have no means of knowing: for it is quite exceptional, and points to a project to which I have found no other allusion anywhere. It is quite possible that it was only a thought which perished in the setting down. But the meaning cannot be mistaken, and the date cannot be far removed from where we now are.

As the only remedy for the King's affairs was to be sought from Parliament, so his principal difficulty lay in the Lower House. Salisbury had had long experience as a member of the Commons before he was raised to the Peerage, and had a party there of personal adherents afterwards. Yet even in his time the Government was but weakly represented. "I must tell you," writes Sir Edward Hoby to Sir Thomas Edmunds, 7 March 1605–6, "that I think the State scorneth to have any privy counsellors of any understanding in that house."[1] And after Salisbury's death it would be difficult to name any member either of the Council or of Parliament whose position in the government combined with his personal weight would have enabled him to conduct the Government business in the Lower House with effect. I suppose Sir Julius Cæsar would have been considered the highest representative of the Council in the last house, but he does not appear to have had any personal influence in debate. What was wanted was some man who could fill the position which Salisbury had filled in Elizabeth's two last parliaments:—a principal secretary of state, qualified to lead the Lower House. And though, among the many candidates for the vacant secretaryship, there was more than one who might have done well enough, the difficulties of one kind or another in the choice were so great, that the appointment remained still, and seemed likely to remain, in suspense. That rumour never suggested the name of Bacon, was owing probably to the fact that the office lay out of the ordinary line of promotion for a lawyer. And yet there can hardly be a doubt that he would have been the fittest man: nor was there any apparent objection to his being transferred to that department, if he were himself willing. It was this consideration, I suppose, which prompted him about this time to write the following letter.

To the King.[2]

It may please your excellent Majesty,

My principal end being to do your Majesty service, I crave leave to make at this time to your Majesty this most humble oblation of myself. I may truly say with the psalm, *Multum*

[1] 'Court and Times of James I.,' vol. i. p. 60.
[2] Gibson Papers, viii. fo. 224. Rough draft in Bacon's hand.

incola fuit anima mea; for my life hath been conversant in things wherein I take little pleasure. Your Majesty may have heard somewhat that my father was an honest man, and somewhat you may have seen of myself, though not to make any true judgment by, because I have hitherto had only *potestatem verborum,* nor that neither. I was three of my young years bred with an ambassador in France, and since I have been an old truant in the school-house of your council-chamber, though on the second form; yet longer than any that now sitteth hath been on the head form. If your Majesty find any aptness in me, or if you find any scarcity in others, whereby you may think it fit for your service to remove me to business of state; although I have a fair way before me for profit (and by your Majesty's grace and favour for honour and advancement), and in a course less exposed to the blasts of fortune, yet now that he is gone, *quo vivente virtutibus certissimum exitium,* I will be ready as a chessman to be wherever your Majesty's royal hand shall set me. Your Majesty will bear me witness, I have not suddenly opened myself thus far. I have looked on upon others, I see the exceptions, I see the distractions, and I fear Tacitus will be a prophet, *magis alii homines quam alii mores.* I know mine own heart, and I know not whether God that hath touched my heart with the affection may not touch your royal heart to discern it. Howsoever, I shall at least go on honestly in mine ordinary course, and supply the rest in prayers for you, remaining, &c.[1]

If the King could have taken courage to accept this offer,—to make Bacon his principal Secretary of State and uphold him firmly in the office,—making him to himself what the first Cecil had been to Elizabeth in the beginning of her reign,—it is possible that the after history of England would have run in another course. But perhaps it would have required the spirit of Elizabeth to do it. James could not have done it without giving deep offence to all the great people with whom he lived, and encountering a great deal of direct and indirect opposition from them: and he was not forced to resolve by the necessity of immediate action. For upon the question of calling a new Parliament (in which case the obvious necessity of having a competent man to manage his business in the House of Commons must have hastened decision) there were divisions in the

[1] He had first written "and I wish to God your M. case were not to require extraordinary affection, for of ability I cannot speak. Sending my best prayers, I rest."

Council. The Earl of Northampton, who from his age, his rank, his reputation, his abilities, and especially from his influence with Rochester (an influence natural enough in itself and greatly increased by Rochester's interest in his niece—for that unhappy business was already on foot) was now become one of the most powerful men in the kingdom, is known to have been strongly against it. Sir Julius Cæsar, who (now that Salisbury was gone) was the greatest official authority in matters of the Exchequer, appears (if he was really the author of the dialogue on the Great Contract) to have countenanced the opinion that the powers which the King possessed were sufficient, without the help of Parliament, to deliver him from his embarrassments.[1] Rochester cannot be supposed to have had many ideas of his own on so difficult a subject. The King had ideas enough; but with a Council so constituted he had very imperfect opportunities of knowing the truth, and with so fresh a recollection of recent disappointments and disgusts, would naturally incline to the opinion of those who promised to set his affairs straight without risking an appeal to that troublesome assembly. In such circumstances one cannot wonder that he resolved not to try a Parliament, or at least put off the resolution to try one, till all other means of rectifying his estate should be put in force. It happened that his case could ill bear any such delay. Delay itself was bad; and perhaps the manner in which the interval was employed made it still worse. But so it was to be. The consideration of a Parliament was suspended for the present. The appointment of a Secretary of State was postponed. The Treasurership was put in commission. The Council was set hard at work to find all possible means of abating the expenditure and improving the revenue: Northampton taking the lead in Council, and Bacon being one of the most active of the sub-commissioners appointed to assist.

His letters however had not been altogether thrown away. Though the King did not make him a Councillor, he encouraged him to offer counsel upon the most important affairs of state; listened to him; and was I think generally disposed to act (I say *disposed* to act, for between the disposition to do a thing and the doing of it there was in his case a great gap) upon his suggestions. So that from the moment of Salisbury's death Bacon became a much more important person.

2.

Among the places left vacant, one was the Mastership of the

[1] "You have answered now all my doubts touching the Kings means of present supply and yearly support without the further help of his Parliament." Parl. Debates, 1610, p. 172.

Wards; an office so lucrative that it had always fallen to the lot of some great person, and to which Salisbury had succeeded on his father's death. After the dissolution of the last Parliament, the debates of which had (as we have seen) turned mainly upon the proposal to abolish the office altogether by purchasing the prerogative of Wardship from the Crown, an attempt had been made to improve the management of it by a set of new instructions issued under the Great Seal in February 1610. The object I think was to make it bring more money into the Exchequer. But after so much attention had been drawn to it as a popular grievance, and such strong language allowed to pass almost without dispute, it was the more necessary, since the office was after all to be maintained, that the administration of it should be carefully looked to; and as this would be easier to do if it were in less powerful hands, the King resolved to try the experiment of committing it to some man of lower rank.

"For the Mastership of the Wards," writes Chamberlain on the 11th of June 1612, "the King saith he hath groped after one in the dark, and will make trial if a meaner man cannot perform it as well as a great, and yet he means not to trust him too far, but will make him provisional till the end of Michaelmas term, and so longer as he shall see cause. And though he saith he hath made no man privy to his resolution, yet it is thought it will light on Sir Francis Bacon."[1]

Whether this plan had been suggested by Bacon, or whether it was the King's own idea, I cannot say. But Bacon had either been advised with or offered advice in the matter, and had submitted to the King a draft of directions for the new Master of the Wards, and a declaration to be made by him at his first sitting; and it seems that he shared the general expectation that the choice would light upon himself. A contemporary copy of the proposed declaration and directions, with the heading inserted in his own hand, is preserved among the Harleian manuscripts: and though it has no date, it may be safely referred to the beginning of June 1612.

A FRAME OF DECLARATION FOR THE MASTER OF THE WARDS, AT HIS FIRST SITTING.[2]

The King (whose virtues are such, as if we, that are his ministers, were able duly to correspond unto them, it were enough to make a golden time) hath commanded certain of his intentions to be published, touching the administration of this place, be-

[1] 'Court and Times of James I.,' vol. i. p. 172.
[2] Harl. MSS. 7020, f. 161.

cause they are somewhat differing from the usage of former times, and yet not by way of novelty, but by way of reformation, and reduction of things to their ancient and true institution.

Wherein nevertheless it is his Majesty's express pleasure it be signified, that he understands this to be done without any derogation from the memory or service of those great persons which have formerly held this place, of whose doings his Majesty retaineth a good and gracious remembrance, especially touching the sincerity of their own minds.

But now that his Majesty meaneth to be as it were master of the wards himself, and that those that he useth be but as his substitutes, and move wholly in his motion, he doth expect things be carried in a sort worthy his own care.

First therefore his Majesty hath had this princely consideration with himself, that as he is *pater patriæ*, so he is by the ancient law of this kingdom *pater pupillorum*, where there is any tenure by knight's service of himself; which extendeth almost to all the great families noble and generous of this kingdom: and therefore being a representative father, his purpose is to imitate and approach as near as may be to the duties and offices of a natural father, in the good education, well bestowing in marriage, and preservation of the houses, woods, lands, and estates of his wards.

For as it is his Majesty's direction that that part which concerns his own profit and right be executed with moderation, so on the other side, it is his princely will that that other part which concerneth protection be overspread and extended to the utmost.

Wherein his Majesty hath three persons in his eye, the wards themselves, idiots, and the rest of like nature; the suitors in this court; and the subjects at large.

For the first, his Majesty hath commanded special care to be taken in the choice of the persons to whom they be committed, that the same be sound in religion, such whose house and families are not noted for dissolute, no greedy persons, no step-mothers, nor the like, and with these qualifications, of the nearest friends. Nay further, his Majesty is minded not so to delegate this trust to the committees, but that he will have once in the year at the least by persons of credit in every county a view and inspection taken of the persons, houses, woods, and lands of the wards, and

other persons under the protection of this court, and certificate to be made thereof accordingly.

For the suitors, which is the second;[1] his Majesty's princely care falls upon two points of reformation; the first that there be an examination of fees, what are due and ancient, and what are new and exacted; and those of the latter kind put down: the other, that the court do not entertain causes too long upon continuances of liveries after the parties are come of full age, which serveth but to waste the parties in suit, considering the decrees cannot be perpetual, but temporary; and therefore controversies here handled are seldom put in peace, till they have past a trial and decision in other courts.

For the third, which is the subject at large: his Majesty hath taken into his princely care the unnecessary vexations of his people by feodaries, and other inferior ministers of like nature, by colour of his tenures: of which part I say nothing for the present, because the parties whom it concerns are for the most part absent: but order shall be given, that they shall give their attendance the last day of the term, then to understand further his Majesty's gracious pleasure.

Thus much by his Majesty's commandment; now we may proceed to the business of the court.

DIRECTIONS FOR THE MASTER OF THE WARDS TO OBSERVE, FOR HIS MAJESTY'S BETTER SERVICE, AND THE GENERAL GOOD.[2]

First, that he take an account how his Majesty's last instructions have been pursued; and of the increase of benefit accrued to his Majesty thereby, and the proportion thereof.

Wherein first, in general, it will be good to cast up a year's benefit, viz. from February, 1610, which is the date of the instructions under the great seal, to February, 1611; and to compare the total with former years before the instructions, that the tree may appear by the fruit, and it may be seen how much his Majesty's profit is redoubled or increased by that course.

Secondly, it will not be amiss to compute not only the yearly benefit, but the number of wardships granted that year, and to compare that with the number of former years; for though the number be a thing casual, yet if it be apparently less than in former years, then it may be justly doubted that men take ad-

[1] *second of* in MS. [2] Harl. MSS. 7020, f. 159.

vantage upon the last clause in the instructions (of exceptions of wards concealed) to practise delays and misfinding of offices, which is a thing most dangerous.

Thirdly, in particular it behoveth to peruse and review the bargains made, and to consider the rates (men's estates being things which for the most part cannot be hid) and thereby to discern what improvement and good husbandry hath been used, and how much the King hath more now when the whole benefit is supposed to go to him, than he had when three parts of the benefit went to the committee.

Fourthly, it is requisite to take consideration what commissions have been granted for copyholds for lives, which are excepted by the instructions from being leased, and what profit hath been raised thereby.

Thus much for the time past, and upon view of these accounts, *res dabit consilium* for further order to be taken.

For the time to come, first it is fit that the master of the wards, being a meaner person, be usually present as well at the treaty and beating of the bargain, as at the concluding, and that he take not the business by report.

Secondly, when suit is made, the information by survey and commission is but one image; but the way were by private diligence to be really informed: neither is it hard for a person that liveth in an inn of court, where there be understanding men of every county of England, to obtain by care certain information.

Thirdly, this kind of promise of preferring the next akin doth much obscure the information, which before by competition of divers did better appear; and therefore it may be necessary for the master of the wards sometimes to direct letters to some persons near the ward living, and to take certificate from them: it being always intended the subject be not racked too high, and that the nearest friends that be sound in religion, and like to give the ward good education, be preferred.

Fourthly, that it be examined carefully whether the ward's revenues consist of copyholds for lives, which are not to be comprised in the lease, and that there be no neglect to grant commissions for the same, and that the master take order to be certified of the profits of former courts held by the ward's ancestor, that it may be a precedent and direction for the commissioners.

Fifthly, that the master make account every six months (the state appoints one in the year) to his Majesty; and that when he bringeth the bill of grants of the body for his Majesty's signature, he bring a schedule of the truth of the state of every one of them (as it hath appeared to him by information) and acquaint his Majesty both with the rates and states.

Thus much concerning the improvement of the King's profit, which concerneth the King as *pater familias*; now as *pater patriæ*.

First for the wards themselves, that there be special care taken in the choice of the committee, that he be sound in religion, his house and family not dissolute, no greedy person, no step-mother, nor the like.

Further, that there be letters written once every year to certain principal gentlemen of credit in every county, to take view not only of the person of the wards in every county and their education, but of their houses, woods, grounds, and estate, and the same to certify; that the committees may be held in some awe, and that the blessing of the poor orphans and the pupils may come upon his Majesty and his children.

Secondly, for the suitors, that there be a strait examination concerning the raising and multiplication of fees in that court, which is much scandalized with opinion thereof, and all exacted fees put down.

Thirdly, for the subjects at large, that the vexation of escheators and feodaries be repressed, which (upon no substantial ground of record) vex the country with inquisitions and other extortions: and for that purpose that there be one set day at the end of every term appointed for examining the abuses of such inferior officers, and that the master of wards take special care to receive private information from gentlemen of quality and conscience in every shire touching the same.

These were no doubt the "Notes for the Wards" of which (as we shall find in a letter of later date) the King was pleased to say that they were "no tricks nor novelties, but true passages of business:" and which were used accordingly, though not exactly in the way which Bacon had anticipated. For they were handed over to another man.

"On Saturday," writes Chamberlain again on the 17th of June,

"Sir George Carey was nominated Master of the Wards; and yesterday he made his entrance with a formal oration. There were three lawyers and three gentlemen in special consideration for the place. The lawyers were the Attorney, the Solicitor, and Serjeant Nicholls; the others were Sir George More, Sir Charles Cornwallis, and this man, who hath lighted upon it by his wife's grace with the Queen, as is thought, or rather, as others say, by the Lord Rochester. The place is much limited and hath but 500*l.* a year of certainty; and perhaps as much more by the ordinary fees of judicature: and withal he is but temporary and hath his commission but till the 7th of next month."[1]

An undated paper, docketed "Discourse of the Court of Wards,"[2] —evidently the address of a new Master to the Court, the first part of which is the foregoing declaration with a few verbal variations, and the latter part indicates that the speaker was *not* a lawyer,—is no doubt Sir George Carey's oration.

3.

It was about this time, and in the middle of some serious quarrels between the Scotch and English which the King had had much trouble in pacifying, that it became his duty to put the law in force against a Scotch nobleman who had procured the murder of an English fencing master. On the 11th of May a fencing master, named Turner, while drinking with two Scotchmen, servants of Lord Sanquhar, was shot dead by one of them. The man who fired the shot got away, but the other was taken, and being examined let out enough to raise a suspicion that their master had been an accessary. Whereupon a proclamation was immediately issued, offering large rewards for the apprehension both of the master and the man. Lord Sanquhar in the mean time, either trusting to his rank, or thinking that no evidence could be produced to connect him with the deed because his dealings had only been with the man who had escaped, gave himself up and stood upon his innocency. But he had cast up his account too soon. Another of his servants who had undertaken the deed, but lost heart and fled, was still in England, and being caught before he could get away, gave evidence which left no doubt of his master's complicity: and shortly after the actual murderer was taken in Scotland and brought up to London. After this it was useless to persist in denials, and Sanquhar confessed everything. The motive of the murder was resentment for a bodily injury in-

[1] C. and T. of James I., i. 174. For the original see S. P. Dom. James I., vol. 69, No. 71.

[2] S. P. Dom. James I., vol. 69, No. 69.

flicted by accident five years before. Turner, in fencing with Sanquhar, had unluckily put out one of his eyes. It does not appear that, at the time, any charge was made or any suspicion entertained of unfair play. But after recovering from the wound and travelling in France (where I suppose he found that the disfigurement told as a disgrace), Sanquhar returned to England with a deliberate purpose of revenge. To kill Turner with his own hand appears to have been his first intention; but having sought in vain for an opportunity to do it himself without risk of detection, he accepted the offer of two of his countrymen who undertook to do it for him; and in the mean time took the precaution, for his own safety, of crossing the Channel again, and waiting to hear what happened. Finding after a while that his friends had failed him, he returned again to England, and resorted to his servants; two of whom jointly undertook the work. And when again one of these thought better and fled, the other offered to do it alone. And so at last it was done.

It would be difficult to imagine a case of a murder more deliberate or more cowardly, or in which the privilege of anger and hot blood could be pleaded with less justice. How it can be supposed that he believed himself to be acting in accordance with the laws of honour, even as interpreted in that duelling age by courts of honour, I cannot understand. At any rate the "honour" which required or allowed the deliberate murder in cold blood, behind the back, and by another man's hand, of one who had meant to do no injury, was a kind of honour with which King James had no sympathy; and though Sanquhar was a Scotchman and a nobleman, and likely enough to find sympathizers among his countrymen after the fact, as he had found accomplices before,[1] he was at once handed over to the King's Bench as a man charged with procuring murder. He was indicted on the 27th of June, pleaded guilty, and made a full confession. After which, according to the practice in such cases, and before the passing of sentence, something was said by the counsel for the prosecution as to the nature of the case. And of what Bacon said on this occasion we have the following report. It was first printed, I believe, in the supplement to the Cabala in 1663, (p. 368) and I have not met with a more original copy. A few obvious corrections, which we owe to the diligence of some preceding editor, (I do not know whom[2]), I have admitted into the text, remit-

[1] "Some of the chief Lords were suitors to the King for his life and that he might be but banished; but it was refused as an unreasonable request." Chamberlain to Carleton, 25 June, 1612. S. P. Dom. James I., vol. 69, no. 75.

[2] Not Blackbourne; who appears to have had a bad copy, which his editor has taken no pains to correct.

ting the original to the footnotes. But the copy appears to be an unusually correct one, wherever it came from.

The Lord Sanquhar's case.

In this cause of[1] life and death, the jury's part is in effect discharged; for after a frank and formal confession, their labour is at an end: so that what hath been said by Mr. Attorney, or shall be said by myself, is rather convenient than necessary.

My Lord Sanquhar, your fault is great; it cannot be extenuated, and it need[2] not be aggravated; and if it needed, you have made so full an anatomy of it out of your own feeling, as it cannot be matched by myself, or any man else, out of conceit; so as that part of aggravation I leave.

Nay more, this Christian and penitent course of yours draws me thus far, that I will agree in some sort to extenuate it: for certainly, as even in extreme evils there are degrees, so this particular of your offence is such, as though it be foul spilling of blood, yet there are more foul: for if you had sought to take away a man's life for his vineyard, as Ahab did; or for envy, as Cain did; or to possess his bed, as David did; surely the murder had been more odious.

Your temptation was revenge, which the more natural it was to man, the more have laws both divine and human sought to repress it; *Mihi vindicta.* But in one thing you and I shall never agree; that generous spirits (you say) are hard to forgive: no, contrariwise, generous and magnanimous minds are readiest to forgive, and it is a weakness and impotency of mind to be unable to forgive;

Corpora magnanimo satis est prostrasse leoni.

But howsoever murther may arise from several motives, less or more odious, yet the law both of God and man involves them in one degree; and therefore you may read that in Joab's case, which was a murther upon revenge, and matcheth with your[3] case; he for a dear brother, and you for a dear part of your own body; yet there was[4] a severe charge given, that it should not be unpunished.

And certainly the circumstance of time is heavy upon you:

[1] *of the:* Cab. [2] *can:* Cab. [3] *our:* Cab. [4] *was never a:* Cab.

it is now five years since this unfortunate man Turner, be it upon accident or be it upon despite, gave the provocation which was the seed of your malice. All passions are assuaged with time: love, hatred, grief, all; fire itself burns out with time, if no new fuel be put to it. Therefore for you to have been in the gall of bitterness so long, and to have been in restless chase of this blood for so many years, is a strange example; and I must tell you plainly, that I conceive you have sucked those affections of dwelling in malice rather out of Italy and outlandish manners where you have conversed, than out of any part of this island, England or Scotland.

But that which is fittest for me to spend time in (the matter being confessed) is to set forth and magnify to the hearers the justice of this day; first of God, and then of the King.

My Lord, you have friends and entertainments in foreign parts; it had been an easy thing for you to set Carlile or some other bloodhound on work, when your person had been beyond the seas; and so this news might have come to you in a packet, and you might have looked on how the storm would pass: but God bereaved you of this foresight, and bound you here under the[1] hand of a King, that though abundant in clemency, yet is no less zealous of justice.

Again, when you came in at Lambeth, you might have persisted in the denial of the procurement of the fact. Carlile, a resolute man, might perhaps have cleared you (for they that are resolute in mischief, are commonly obstinate in concealing their procurers), and so nothing should have been against you but presumption. But then also God, to take away all obstructions of justice, gave you the grace (which ought indeed to be more true comfort to you than any device whereby you might have escaped) to make a clear and plain confession.

Other impediments there were (not a few) which might have been an interruption to this day's justice, had not God in his providence removed them.

But, now that I have given God the honour, let me give it likewise where it is next due, which is, to the King our Sovereign.

This murther was no sooner committed, and brought to his Majesty's ears, but his just indignation, wherewith he first was

[1] *that*: Cab.

moved, cast itself into a great deal of care and providence[1] to have justice done. First came forth his proclamation, somewhat of a rare form, and devised and in effect dictated by his Majesty himself; and by that he did prosecute the offenders, as it were, with the breath and blast of his mouth. Then did his Majesty stretch forth his long arms (for Kings have long arms when they will extend them) one of them to the sea, where he took hold of Grey shipped for Sweden,[2] who gave the first light of testimony; the other arm to Scotland, and took hold of Carlile, ere he was warm in his house, and brought him the length of his kingdom under such safe watch and custody, as he could have no means to escape, no nor to mischief himself, no nor learn no lessons to stand mute; in which case, perhaps, this day's justice might have received a stop. So that I may conclude his Majesty hath shewed himself God's true lieutenant, and that he is no respecter of persons; but English, Scottish, nobleman,[3] fencer, are to him alike in respect of justice.

Nay, I must say further, that his Majesty hath had in this a kind of prophetical spirit; for what time Carlile and Grey, and you, my Lord, yourself, were fled no man knew whither, to the four winds, the King ever spake in a confident and undertaking manner, that wheresoever the offenders were in Europe, he would produce them forth to justice; of which noble word God hath made him master.

Lastly, I will conclude towards you, my Lord, that though your offence hath been great, yet your confession hath been free, and your behaviour and speech full of discretion; and this shews, that though you could not resist the tempter, yet you bear a christian and generous spirit, answerable to the noble family of which you are descended. This I commend in you, and take it to be an assured token of God's mercy and favour, in respect whereof all worldly things are but trash; and so it is fit for you, as your state now is, to account them. And this is all I will say for the present.

If the law against murder was ever to be enforced, it could not in this case be remitted. Lord Sanquhar was hanged on the 29th of June, in front of the great gate of Westminster Hall. But his rank, though it did not weigh with the King as a reason for reprieving him,

[1] *prudence:* Cab. [2] *Luedia:* Cab. [3] *noblemen:* Cab.

seems to have had its effect upon the bystanders. The murder of an Englishman by a Scotchman for such a cause and in such a way was not in itself an act to move sympathy in a crowd of English spectators. Yet the feeling excited by his execution is said to have been pity. He played the scene handsomely; and both at his trial and execution so behaved himself, says Chamberlain, "that he moved much commiseration: and yet he professed himself a Romish Catholic, and died resolutely, and, as it seemed, with great remorse."[1] It is not probable that any pity was felt for either of the Scotch servants whose hands he employed, and who suffered in the same way. For men of their rank it was an accident common enough. But when a nobleman is hanged, the contrast betwen the felicity of the fortune and the infelicity of the fate strikes the common mind as something strange and lamentable.

4.

The marriage of the Lady Arabella Stuart with William Seymour was not a matter upon which Bacon was ever, so far as I know, called upon for opinion or advice. The only extant writing of his which connects him with the case is a charge against the Countess of Shrewsbury for contempt in refusing to answer questions put to her by the Council in reference to it: and though his argument required a recapitulation of the circumstances, it is to be accepted as the argument of an advocate speaking for his client, rather than that of a councillor giving advice. Not that I suppose he would have told a different story in another place; but that the personal opinions of a crown lawyer as to proceedings of the Crown, are not to be inferred from his professional arguments in defence of them.

Lady Arabella Stuart had the misfortune to have so much royal blood in her, that if she married a husband with an equal share of it a son of hers might become a pretender to the crown. Though there is no reason to suppose that she had any such ambition, the moderation of her own desires was no security against what might happen. She could not answer for the desires of a husband or a son. The wars of the Roses were too fresh in memory to have lost their value as a warning. A disputable succession was still the terror of English statesmen: and we must not be surprised if the sentimental sufferings of two lovers (infinitely more interesting though they be to a modern reader) seemed to them unimportant in comparison. That her marriage could not be altogether her own business, was a misfortune; but one which came by the nature of

[1] C. and T. of James I., i. 180.

things and could not be helped. In other respects it cannot be said that her fate was a hard one. She was acknowledged and treated as the King's cousin: she had social position, liberty, wealth, favour, and leave to marry whom she liked—with a very few exceptions. To be restrained by the nature of things from marrying the one person who would be the most acceptable of all, is a common condition,—not by any means confined to ladies of the blood royal in tyrannous times: and if the Lady Arabella could have submitted, as other people do, to what was inevitable, and made the best of the large choice which was still left her among the good things which the world had to offer, she might have done well enough. Unfortunately,—if it is not too hard upon fortune to lay all the blame on it,—in an age when marriages were rarely made even in private life without consultation and consent of parents and guardians, and having just received a fair warning that *her* marriage was an event to which the State could not be indifferent, she not only accepted the addresses of William Seymour, but entered into a *secret* engagement to marry him. It is said indeed that she had obtained the King's consent by implication: for he had assured her that he would not object to her marriage with any subject of his, and Seymour was his subject. But assurance of the King's approval of her choice was no good reason for not acquainting him with it. That she was *not* sure of it, would have been a better. For it is undoubtedly true that when two people want to marry *against* the wishes of their relations, the shortest and most effectual way to avoid or remove difficulties is to marry first and ask leave after. When it cannot be prevented it will be more easily acquiesced in. Whether this was Arabella's policy and intention, we cannot tell: for the secret was discovered before it was confessed. A fortunate discovery, if she was really acting under the impression that the alliance would not be objected to: for it let her see her error before it was too late to alter her course. William Seymour was the second son of Lord Beauchamp, son of the Earl of Hertford and Catherine Gray: and if his elder brother should die without issue (which seemed probable then, and came to pass shortly after) the title of the house of Suffolk to the English throne would descend to him. The title of the Seymours and of Arabella united might breed a pretender, who (under circumstances neither inconceivable nor unprecedented) would be formidable. The King, having heard of the engagement, forbade the marriage, and obtained from Seymour a promise to proceed no further with it. But it was too late. The affair had risen above the region in which Kings and politicians have jurisdiction. The affection of two hearts was irrevocably engaged, and after an ineffectual struggle of

three months, vindicated its right and carried the day. They were married to each other about the end of May 1610, and in the beginning of July the King heard of their marriage. If the political objection to the alliance had any weight, it was not lightened by the manner in which it had been brought about; nor was it yet too late to prevent the consequences, in which alone the danger which was the ground of the objection lay. Though they could not be prevented from being man and wife, they might be prevented from having children. Seymour was accordingly committed to the Tower, and Arabella to custody at Lambeth: and when it was found that she was keeping up a correspondence with her husband, it was determined to remove her to Durham. The custody in both cases must have been sufficiently lax; for while she was on her way (by very slow stages in consideration of alleged bodily weakness) to her new destination, she contrived, with the help of her aunt the Countess of Shrewsbury, to arrange with her husband a plan of escape, of meeting, and of taking ship together for the Continent: a plan which was executed successfully, as far as the escape went; and was only prevented by an accident from succeeding altogether. They both escaped from custody at the same time, and both sailed from the same place; though he had to go in a different ship. But this, though a disappointment, was really a piece of good fortune; for the ship in which *she* sailed was pursued and caught, while his landed him safely at Ostend.

If the married pair would have been dangerous, living at the English Court in loyalty and favour, it was plain they would be infinitely more dangerous living abroad as exiles and fugitives—guests of alien and rival powers, and out of humour with their own government. Arabella being recaptured therefore, it seemed more necessary than ever to prevent her from escaping again and joining her husband beyond the sea, and she was lodged in the Tower for security.

The attempt to escape was accounted a great offence, and the Countess of Shrewsbury, who had something to do with it, was brought before the Council and interrogated. Refusing to answer, she was herself committed to the Tower; where she continued inexorable and invincible. It was in June 1611 that she was first lodged there. On the 12th of February following we learn from Chamberlain that she was still a prisoner, "rather (he adds) upon wilfulness than upon any great matter she is charged withal, only the King is resolute that she shall answer to certain interrogatories, and she as obstinate to make none, nor to be examined."[1] On the 30th of June

[1] C. and T. of James I., i. p. 161.

1612 another attempt was made to bend her, with no better success. She was called (Chamberlain writes on the 2nd of July) "before the Council and Judges on Tuesday at the Lord Chancellor's; where by the Attorney and Solicitor and by all the Lords and Judges her contempt towards the King and that table was laid open, and much aggravated for her refusing to answer, and scornful words used towards some at her first conventing, and her persisting still in the same course: which example might prove of dangerous consequence. To all which she replied nothing but the privilege of her person and nobility, and a rash vow which she could not violate. Whereupon she was sent back to the Tower; and this proceeding is thought to be a preamble, if she do not reclaim herself, to a censure in the Star-chamber."[1]

A speech evidently made for this occasion is printed in the Cabala, (p. 369) and though the name of the speaker is not mentioned, I suppose every body will agree with Robert Stephens that Bacon must have been the author. I have not met with any manuscript of it, or any independent copy.

Charge against the Countess of Shrewsbury.

Your Lordships do observe the nature of this charge.

My Lady of Shrewsbury, a lady wise, and that ought to know what duty requireth, is charged to have refused, and to have persisted in refusal, to answer and to be examined in a high cause of state, being examined by the council-table, which is a representative body of the King.

The nature of the cause upon which she was examined is an essential point, which doth aggravate and increase this contempt and presumption; and therefore of necessity with that we must begin.

How graciously and parent-like his Majesty used the Lady Arabella before she gave him cause of indignation, the world knoweth.

My Lady, notwithstanding, extremely ill-advised, transacted the most weighty and binding part and action of her life, which is her marriage, without acquainting his Majesty; which had been a neglect even to a mean parent. But being to our Sovereign, and she standing so near to his Majesty as she doth, and then choosing such a condition as it pleased her to choose, all parts[2] laid together, how dangerous it was, my Lady might have

[1] C. and T. of James I., i. p. 180.

[2] *parties:* Cab.

read it in the fortune of that house wherewith she is matched; for it was not unlike the case of Mr. Seymour's grandmother.

The King nevertheless so remembered he was a king, as he forgot not he was a kinsman, and placed her only *sub libera custodia.*

But now did my Lady accumulate and heap up this offence with a far greater than the former, by seeking to withdraw herself out of the King's power into foreign parts.

That this flight or escape into foreign parts might have been seed of trouble to this state, is a matter whereof the conceit of a vulgar person is not uncapable.[1]

For although my Lady should have put on a mind to continue her loyalty, as nature and duty did bind her; yet when she was in another sphere, she must have moved in the motion of that orb, and not of the planet itself. And God forbid the King's felicity should be so little, as he should not have envy and enviers enough in foreign parts.

It is true, if any foreigner had wrought upon this occasion, I do not doubt but the intent[2] would have been, as the prophet saith, *they have conceived mischief, and brought forth a vain thing.* But yet your Lordships know that it is wisdom in princes, and it is a watch they owe to themselves and to their people, to stop the beginnings of evils, and not to despise them. Seneca saith well, *Non jam amplius levia sunt pericula, si levia videantur;* dangers cease to be light, because by despising they grow and gather strength.

And accordingly hath been the practice both of the wisest and stoutest princes, to hold for matter pregnant of peril to have any near them in blood to fly into foreign parts. Wherein I will not wander; but take the example of King Henry the seventh, a prince not unfit to be paralleled with his Majesty; I mean not the particular of Perkin Warbeck, for he was but an idol or a disguise; but the example I mean is that of the Earl of Suffolk, whom that king extorted from Philip of Austria. The story is memorable, that Philip after the death of Isabella, coming to take possession of his kingdom of Castile (which was but matrimonial to his father-in-law Ferdinando of Aragon,) was cast by weather upon the coast of Weymouth,[3] where the Italian story saith king Henry used him in all things else as a prince, but in

[1] *capable:* Cab. [2] So in Cab. Qu. *event?* [3] *Tamouth:* Cab.

one thing as a prisoner: for he foreed upon him a promise to restore the Earl of Suffolk that was fled into Flanders; and yet this I note was in the 21st year of his reign, when the King had a goodly Prince at man's estate, besides his daughters, nay and the whole line of Clarenee nearer in title; for that Earl of Suffolk was deseended of a sister of Edward the fourth: so far off did that King take his aim.

To this action of so deep consequence, it appeareth you (my Lady of Shrewsbury) were privy, not upon foreign suspicions or strained inferences, but upon vehement presumptions, now elear and particular testimony, as hath been opened to you; so as the King had not only reason to examine you upon it, but to have proeeeded with you upon it as for a great contempt; which if it be reserved for the present, your Ladyship is to understand it aright, that it is not defeet of proof, but abundanee of graee that is the eause of this proeeeding. And your Ladyship shall do well to see into what danger you have brought yourself. All offenees eonsist of the fact whieh is open, and the intent whieh is seeret; this faet of eonspiring in the flight of this Lady may bear a harder[1] and gentler eonstruetion; if upon overmueh affeetion to your kinswoman, gentler; if upon praetiee or other end, harder; you must take heed how you enter into sueh aetions; whereof if the hidden part be drawn unto that whieh is open, it may be your overthrow; whieh I speak not by way of eharge, but by way of eaution.

For that whieh you are properly eharged with, you must know that all subjeets, without distinetion of degrees, owe to the King tribute and serviee, not only of their deed and hand, but of their knowledge and diseovery.

If there be any thing that imports the King's serviee, they ought themselves undemanded to impart it; mueh more, if they be ealled and examined, whether it be of their own faet or of another's, they ought to make direet answer: neither was there ever any subjeet brought in[2] eauses of estate to trial judieial, but first he passed examination; for examination is the entrance of justiee in eriminal eauses; it is one of the eyes of the King's politie body; there are but two, information and examination; it may not be endured that one of the lights be put out by your example.

[1] *hard*: Cab. [2] *into*: Cab.

Your excuses are not worthy your own judgment; rash vows of lawful things are to be kept, but unlawful vows not; your own divines will tell you so. For your examples, they are some erroneous traditions. My lord of Pembroke spake somewhat that he was unlettered, and it was but when he was examined by one private councillor, to whom he took exception. That of my lord Lumley is a fiction; the preeminences of nobility I would hold with to the last grain; but every day's experience is to the contrary. Nay, you may learn duty of my Lady Arabella herself, a Lady of the blood, of an higher rank than yourself, who declining (and yet that but by request neither) to declare of your fact, yieldeth ingenuously to be examined of her own. I do not doubt but by this time you see both your own error, and the King's grace in proceeding with you in this manner.

This proceeding took place before a "select Council," including the three Chief Justices and the Master of the Rolls; and as we hear of no remonstrance from any of them at the time nor of any popular complaint before or after, I suppose we may infer that the previous imprisonment of the Countess was not beyond the legal powers of the Council, as its powers were then understood. In the present case the Judges took their full share of responsibility, and delivered a distinct opinion upon the three questions of law which it involved; namely

"1. Whether the refusals aforesaid of the said Countess were offences in law against the King his crown and dignity.

"2. What manner of proceeding this was, and whether it was justifiable by precedent or reason.

"3. What was the demerit of the offences, and how punishable."

Upon the first point they gave opinion that "the denying to be examined was a high and great contempt in law against the King, his crown and dignity: and that if it should be permitted, it would be an occasion of many high and dangerous designs against the King and the realm, which cannot be discovered; and upon hope of impunity it will be an encouragement to offenders, as Fleming Justice said, to enterprise dangerous attempts."

Upon the second, viz. concerning the manner of this proceeding, they observed

"1. *Privativè*, it is not to fine and imprison, or to inflict corporal punishment upon the Countess; for fine and imprisonment ought to be assessed in some Court judicially.

"2. *Positivè*, the fine[1] is *ad monendum*, or at the most *ad minandum*: it is *ad instruendum non ad destruendum*.

"This selected Council is to express what punishment this offence justly deserved, if it be judicially proceeded with in the Star-chamber; for which reason this manner of proceeding is out of the mercy and grace of the King against this honourable Lady, that she seeing her offence may submit herself to the King without any punishment in any Court judicially.

"If sentence shall be given in the Star-chamber according to justice, you the Lords shall be agents in it: but in this manner, according to the mercy of the King, the King is only agent: the law hath put rules and limits to the justice of the King, but not unto his mercy; that is transcendant, and without any limits of the law: *et ideo processus iste est regalis plane et rege dignus*."

As to the last point,—

"It was resolved by all *quasi una voce* that if a sentence should be given in the Star-chamber judicially, she should be fined 20,000*l*. and imprisoned during the King's pleasure."[2]

This comes from the posthumous portion of Coke's reports, not prepared for publication by himself; and from some short comments and queries in the margin of the paragraph in which he states the substance of the charge, I gather that at some later time he would perhaps have been disposed to question the soundness of this judgment. But there can be no doubt that it was the judgment which at that time he believed to be sound, and concurred in without any reservation.

Sound or unsound, it must have been conclusive to the Countess of what she had to expect from a judicial proceeding in the Star-chamber. Yet the threat had no effect upon her; nor was it thought desirable to carry it into execution at that time. Six years after, she had to appear before that Court to answer a charge of the same kind connected with the same case; but for the present she was merely sent back to her lodging in the Tower; where she remained in occupation of the best apartments[3] for a long time.

For the poor Lady Arabella there was no help and no hope; and though I cannot but think that she had acted indiscreetly and helped

[1] So printed, but I should think by mistake. "*It*" is apparently the word wanted, viz. the proceeding. They have explained *privativè* what "it" is *not*: they are now going to explain *positivè* what "it" *is*. If Coke meant to write "fine," he must have meant a play upon the word and used it in the sense of "end:" for in the present case no fine in the ordinary sense was in question.

[2] Coke's Reports, part xii. p. 96.

[3] S. P. Dom. James I., vol. xcix. no. 9.

to make the bed she had to lie in, her fate was much to be pitied. I do not find that she suffered any severity or privation beyond restraint of liberty and separation from her husband; and yet it is quite possible that the failure of her health and the breaking down of her mind which followed was a direct consequence of her imprisonment. Her previous conduct shews that she had much spirit and little patience, and she was not an unlikely bird to kill herself against the bars of her cage. As yet however, if we may judge from the report we have of her half a year after, when upon the marriage of the Lady Elizabeth "she showed her joy by buying four new gowns, one of which cost 1500*l.*,"[1] there were no symptoms of an issue so tragical.

William Seymour remained abroad till after her death. In the beginning of 1616 he begged pardon for his youthful transgression, and obtained permission to return: in November of the same year, on occasion of the creation of the Prince of Wales, he was made a Knight of the Bath: in the beginning of 1618, married the daughter of the Earl of Essex: in 1621 succeeded by the death of his grandfather (his father and brother having died before) to the honours of the house of Hertford: and lived to deserve the gratitude of the House of Stuart by such services as a subject can rarely render to a Sovereign.

[1] S. P. Dom. James I., vol. lxxii. no. 28. (Calendar, p. 170.)

CHAPTER IX.

A.D. 1612. August. ÆTAT. 52.

The preliminaries of the marriage of the Princess Elizabeth had been finally arranged, and the contract signed, in May 1612. In September, the young Elector Palatine was expected to come for his wife.

By ancient custom, which had grown into law, there was due to the King, upon the marriage of his eldest daughter, an "Aid" from his subjects. And this was now to be levied. When a similar Aid was called for two years before on occasion of the Prince being made a Knight, Salisbury being then the supreme manager of affairs, the lawyer's work in preparing commissions and instructions would naturally be laid upon the Attorney General, who was Salisbury's own man. But now that the rest of the Council were left to get their work done as well as they could in their own way, it seems that they found the Solicitor a more effective instrument. Northampton, whose position gave him the lead, had not hitherto shown any partiality for Bacon, but it was necessary to find some one who could be trusted for despatch of business, and he concurred with the rest in putting this business into Bacon's hands. Sending to Rochester (who I presume was with the King) a report of Council business, apparently on the 3rd of August, he writes—

"Mr. Solicitor this day was ready to have informed the board touching his own industry and care in drawing the matter of the Aid for the marriage of her Grace, and the circumstances that belong to it,—that is, Commissions, Instructions, and Letters,—in some better form and method than was used at the creation of the Prince. For the form legal, in respect of many burdens which it brings, being drawn into a better form upon the King's admittance for the subject's ease that neither his estate be rifled nor executions in this kind left as records to future times with heavy weights, left some things crude which are now digested and drawn both into course and use more orderly. The Council board was very weak this day in number . . . and therefore the cause craving a more complete audience, that every one may add or alter where he finds just cause, it is put off till Friday next."[1]

[1] S. P. Dom. James I., vol. lxx. no. 25.

And again on the 8th—

"The matter of the Aid (for the matching of the best and most virtuous young Lady that since the Conquest hath been sent from hence) having been discontinued ever since the time of Henry 7, falls upon a question whether it be to be levied more conveniently (both for the Prince and Subject) according to the legal form, which rifles and reveals estates without any greater benefit to the King, and so galls with acrimony, or by commission, which in some respects to be expressed at more length is better for the King and the subject, and comes with satisfaction and easiness, whereof the late experience of that for the Prince gives a precedent.

"For the better fitting of this service to time present, my L. Chancellor, as a Lord paramount in his own element of law, and Mr. Solicitor as a person very apt in that faculty both to apprehend and add, have acquainted the Lords yesterday with that course and form which both they by their rules and the Lords by their reasons did best approve; a brief abstract of which I thought good to present to your Lordship," etc.[1]

The result of the deliberation was a formal letter to Bacon from the Lords of the Council, requiring him to prepare for the King's signature commissions for the levying of the Aid, "and also to draw such Instructions for the better direction of the Commissioners herein as to his wisdom should seem best.[2]

These Instructions therefore must be regarded as something more than a piece of ordinary routine work. They were the work of Bacon both in suggestion and execution, and had reference to matters which in the critical relation now subsisting between the King and the people were both delicate and difficult. Fortunately the occasion was a popular one; for the Elector was a Protestant and the Lady Elizabeth was a favourite with the people. But the matter was taxation, which is vexatious to an Englishman even when imposed with his own consent; much more when it comes upon him out of ordinary course and in the name of a feudal privilege.

The manuscript in which I find the letter last quoted is entitled "a relation how the business passed for the levying and collecting the aid to his Majesty's use for the marriage of the Lady Elizabeth's grace, his eldest daughter; together with copies of all the Commissions and instructions concerning the same; dated the 24th of January 1612." But it is imperfect in itself, and seems more imperfect than it really is, the sheets having become separated, and been bound up into separate volumes. The portion of it however which contains the Instructions to the Commissioners charged with the duty of collecting the Aid appears to be complete.

[1] Ib. no. 30. [2] Harl. MSS. 354, fo. 9.

They are the Instructions which were sent for the King's signature; and were accompanied with the following letter from Bacon to the King.

It may please your most excellent Ma^ty.

This bill containeth the form of Instructions to be sent down with the commissions concerning the aid into every county. And it is devised,—because your M. should not be troubled with signing every particular instruction as you were the last time,—that your M. signature be only to this draft, and the several commissions to bé signed by six of your M. Privy Council, who are authorised likewise thereunto by letters under your M. signature: drawn and reformed in divers parts by the special direction of the Lord Chancellor and Lord Privy Seal, and others of your Highness' Privy Council.

FRA. BACON.[1]

The copy of the Instructions themselves begins at the top of a page, and has no heading, which makes it probable that something has been lost. But though they may have been introduced by some preamble, the articles are evidently complete. The date of the composition was probably August 1612.

[INSTRUCTIONS TO THE COMMISSIONERS FOR COLLECTING THE AID ON THE MARRIAGE OF THE PRINCESS ELIZABETH.][2]

First, you shall understand that the service wherein you may deserve well by your diligent and discreet execution of his Majesty's commission resteth generally upon two parts: The one that the Aid may in a reasonable manner rise best for his Majesty's profit; the other (which his Majesty esteemeth no less), that it may be levied with as little trouble, charge, or discontent to the country as may be. For the former of these you are not altogether to be led by the proportion of that which was done in the Prince's Aid; for first his Majesty did then observe great difference in that aid between the service done by the Commissioners in some countries and in some others; whereby his M. now expecteth upon the second trial that those which did well then should continue to do well still, and those which neglected then should come forward to do better: Secondly, it is somewhat to be

[1] Harl. MSS. 298, fo. 13 b.

[2] Ibid. fo. 10.

considered that his Maty took that aid as soon as it was due, which was when the Prince's Highness came to the years of 15; whereas in this aid his M. hath deferred to call for it now divers years after it hath been due by law, until the treaty of the marriage of the Lady Elizabeth were actually in some forwardness: And lastly you cannot but know that the aid for the Prince (though there could not be an occasion of greater comfort) yet drew no such present charge upon his M. whereas this is coupled with a real and present charge. And for the second part, amongst other things there is no better way to give contentment unto the country than to let them rightly understand and perceive fully how just cause they have not only to content themselves, but to acknowledge his M. great favour in giving liberty to compound, and not proceeding only by the course of law. For the course [of law] must have had these parts. First, men must have sent their evidences to the Commissioners, which is troublesome; the same evidences must have been looked into by the Commissioners, and especially by the Feodaries and Escheators; and though the inspection be meant for the tenure, yet incidently it might disclose the state and title; then must have followed a distinguishment between the Knight's service land and the Soccage, and thereby if men could not have showed plain matter for Soccage, a Knight's service tenure might upon the sudden have been charged upon the lands for ever: Then likewise must the value of all Soccage lands have been discovered, and the whole value of the aid according to the rate of the Statute must have grown into the nature of a debt to his M. And of all this must there have been made up a roll, and so a perpetual record of the tenures and values, which values of record might have turned to the prejudice of the subject in finding of offices and other assessments. This being the course of necessity to have been held in a legal proceeding, you see plainly how gracious this course of composition is, which you shall do well also to express for his M. honour and the country's better satisfaction.

And now having acquainted you with these two general heads of this service, for your more particular instructions you shall observe the articles following, and so follow the particular instructions.

That your meetings and sittings be in the most public places of the county, and the same to be in more or fewer places according as the county is great or small.

That you cause juries to be returned according to the number of the places of your sittings of the sufficientest of the freeholders, and that general warrants be sent forth to summon in every parish all the King's freeholders, and also to command all Constables and Bailiffs of Hundreds, petty Constables and Tithing men, to attend the service at your several meetings, and to present the names of all such freeholders and the quantities and yearly values of their lands, and where the same lie, with all circumstances that may certainly design the same.

You shall declare that aid as well to make the King's eldest son knight as to marry his eldest daughter is by the ancient common laws of this realm due to the King, as it is also due to other Lords that are subjects, as of mere right; and that at the first it was uncertain and to [be] imposed by discretion reasonably, and afterwards by a statute of the 25° Edwardi 3, at the suit of the subject and in his favour, the aid to the King was reduced to a certainty of 20*s*. for a Knight's fee, and 20*s*. for 20*l*. land in soccage and so ratably.

Then may you declare the reasons why the like hath not been demanded of late times, if you find it needful: which are apparent: for that Queen Elizabeth, Queen Mary, and King Edward had no children, and King Henry 8 died before his son was of the age of 15 or his daughters married. But you are to take knowledge that King Henry 7 had satisfaction by Parliament both for Prince Arthur his eldest son, and for the Lady Margaret his eldest daughter, and before that time aids were usually levied when there was cause, as appears by records as high as any extant. You are so to carry yourselves that you give no just cause of grievance to the subject, nor yet neglect the King's right and just profit, and therefore you shall observe the course hereafter prescribed.

You shall make declaration that the Kings purpose is not to search into the estate of any of his subjects, nor exactly to know the quantities or worth of their lands, nor to sift the tenures of the same, nor to strain their values, nor to have any record made or certified for any other purpose than for the taxation of this aid. But that his Ma$^{ty's}$ purpose is only to be satisfied of that duty of aid moderately valued which of right belongeth unto him; for which cause his M. hath given you authority by his commission to proceed as well by composition as by the legal

course; and here you may make the people understand the difference and favour of this proceeding which is expressed unto you in the general articles: And therefore you shall advise them dutifully to yield to his M. what shall be found likely to be due unto him; wherein it is not meant that the values shall be strictly sifted, or the taxation made according to the full value, but after a moderate valuation of the land holden; wherein although you shall not need to procced by Jury or Survey particularly, yet its so well known that by your own understanding amongst you of the freeholders' estates you may so estimate the values, as the King may not be wronged nor the subject pressed to the highest. In which case as they shall avoid all trouble and charges, so you may thereupon accept and take such composition as shall seem reasonable unto you, without making any particular record either of their tenures or values of their lands.

But if you shall find any to be wilful or obstinate, then you shall proceed with them according to the law. Also for your better understanding of the cases where aid is and of whom to be levied, you may help yourselves by the Instructions following.

All monastery and chantry lands are holden of the King immediately, either by Knight's service or soccage tenure, and therefore are all liable: as also all lands conveyed away from the Crown, though the same have been granted over since the statute of *Quia emptores terrarum.*

The lands of Bishops, Deans, and Chapters, Colleges and other spiritual corporations, Mayor and Communalties and other lay corporations, are to be charged according to their tenures, as particular persons where lands or tenements are holden in towns by free burgage, this in nature of a soccage, and to yield aid accordingly.

Where land is found to be holden by Knight's service not expressing the quantity of the Knight's fee, there it lies upon the tenant to prove the quantity of the Knight's fee, or else to be charged with a whole Knight's fee: And if a Knight's fee or any part of a Knight's fee be divided by several parts of the land holden, any one may be charged with the whole, and he to seek his contribution of the rest[1] wherein the Mesne being the immediate tenant to the King is chargeable, there the aid is to be levied upon any other his own lands, and not upon the tenant's lands, except there be no other way to levy it.

[1] So MS. I suppose there should be a stop after 'rest.'

If any lands holden in soccage of the King be let out for any particular estate at a low rent, he in the reversion is to be charged according to the value of the land as if it were in possession, and the aid thereupon arising may be taken out of his rent of that land or of any other his land, and for want thereof out of the land itself in the hands of the farmer.

Lands that appear to have been heretofore holden of a Mesne whose heirs are not at this day known, are to be taxed as lands holden immediately, except the Tenant can certainly assign the heir of the Mesne.

The Commissioners are to prefix further several days to the [blank in MS.] to bring in their informations for their presentments, and the Commission to be adjourned until the first of those days.

In the mean time, between that and the day of prefixion, the feodary and Jurors may agree upon one or more certain days of meetings to be held after that the jurors have taken knowledge of the lands in every Hundred. At which meetings the Feodary and parties whom it shall concern may inform them of anything pertinent to the said service or to their satisfaction in that behalf.

At the day of adjournment the Jurors are to deliver in their remembrances in paper, which are to be perused by the Commissioners as instructions and not as presentments.

And if any differences happen concerning tenures, quantities, or values, then the feodary or other commissioners are to inform the Jurors therein by records or other proofs, and so to proceed to presentment, except they can grow to composition as aforesaid.

And because the feodary of the county hath the daily use earriage and custody of records and other proofs that are to give light and furtherance to this service, that therefore he be always one at all sittings concerning the said service.

That the taxations and rates made by composition be engrossed into two Rolls indented, entituled, The Roll of Compositions made by force of the Commission for levying the King's Majesty's aid for the marriage of the Lady Elizabeth's grace his M. eldest daughter in the County of ——. And the same to be signed and sealed by the Commissioners and collector; the one part thereof to be delivered to the collector and the other part to be certified into the Exchequer; and the taxations and rates found by Inquisition or set by the Commissioners to be also engrossed

into two other Rolls indented, entituled the Rolls of the sums found by Inquisition and set by the Commissioners by force of the Commission for levying the K's M's aid for the Marriage of the Lady Elizabeth's grace the K's M's eldest daughter.

That such as shall not satisfy the aid before the return of the Commission be certified into the Exchequer and left to the process of the Court.

That you the Commissioners take knowledge that it is his M's pleasure that [blank in MS.] of you shall levy or collect the moneys from time to time arising by this Commission, and that the rest of you the Commissioners be discharged thereof, and will give order that you shall receive your full discharge in that behalf by further order of his Court of Exchequer.

It is his M's pleasure that you forbear to proceed with any the Lords spiritual or temporal concerning this aid except you receive further order from his M. for that his M. intendeth to grant a special commission for that service, as was heretofore done in the aid for the Prince.[1]

It is his M. further pleasure that you likewise forbear to proceed to the execution of this Commission for any of the lands or possessions of the Masters, Wardens, Provosts, Principals, Governors, fellows, and scholars of the Universities of Oxford and Cambridge or of either of them.

Ex^r. per
FRA. BACON.

2.

This "aid" brought into the Exchequer about 22,000*l*. But as the extraordinary expenses connected with the marriage considerably exceeded that sum, it did not help to rectify the finances or reduce the debt.

Before calling another Parliament, it had been resolved to try whether by better management of the Crown property the ordinary receipts could not be brought nearer to an equality with the ordinary expenditure. Of the progress of that enquiry we learn something from a letter of Bacon's to the King, dated the 18th of September 1612, which is preserved among his own papers now at Lambeth, but (the sheets having been misplaced and the connexion not ob-

[1] Copies of the Instructions for levying the Aid upon the Lords spiritual and temporal, and upon the Colleges and the Houses of the University of Cambridge, may be seen in Harl. MSS. 354, f. 70 b.

served) has hitherto been exhibited as two incomplete letters, the first wanting the beginning and the second wanting the end, instead of one complete. It is rather singular that Birch, who first printed them from the orignals,[1] should not hvae detected this error, because he must have seen another paper in the same volume,[2] which settles the question.

To the King.[3]

It may please your excellent Majesty,

I have with all possible diligence, since your Majesty's progress, attended the service committed to the sub-commissioners touching the repair and improvement of your Majesty's means; and this I have done not only in meeting and conference and debate with the rest, but also by my several and private meditation and inquiry. So that besides the joint account which we shall give to the Lords, I hope I shall be able to give your Majesty somewhat *ex proprio*. For as no man loveth better *consulere in communi* than I do, neither am I of those fine ones that use to keep back any thing wherein they think they may win credit apart, and so make the consultation almost *inutile;* So nevertheless, in case where matter shall fall in upon the bye, perhaps of no less worth than that which is the proper subject of the consultation, or where I find things passed over too slightly, or in case where that which I should advise is of that nature as I hold it not fit to be communicated to all those with whom I am joined, these parts of business I put to my private account; not because I would be officious (though I profess I would do works of supererogation if I could), but in a true discretion and caution. And your Majesty had some taste in those notes which I gave you for the wards, (which it pleased you to say were no tricks nor noveltics, but true passages of business) that mine own particular remembrances and observations are not like to be unprofitable. Concerning which notes for the wards, though I might say *sic vos non vobis*, yet let that pass.

I have also considered fully of that great proposition, which your Majesty commended to my care and study, touching the

[1] Letters, etc., of the L. Ch. Bacon, pp. 30–34.

[2] Gibson's Papers, vol. viii. fo. 242.

[3] Gib. Pap., vol. viii. fo. 9, and fol. 242: the last being the draft: both in Bacon's own hand: docketed, also in Bacon's hand, "My letter to the King, touching his estate in general, September 18th, 1612."

conversion of your revenue of land into a multiplied present revenue of rent; wherein I say, I have considered of the means and course to be taken, of the assurance, of the rates, of the exceptions, and of the arguments for and against it. For though the project itself be as old as I can remember, and falleth under every man's capacity, yet the dispute and manage of it asketh a great deal of consideration and judgment; projects being like Æsop's tongues, the best meat and the worst, as they are chosen and handled. But surely, *ubi deficiunt remedia ordinaria, recurrendum est ad extraordinaria.* Of this also I am ready to give your Majesty an account.

Generally upon this subject of the repair of your Majesty's means, I beseech your Majesty to give me leave to make this judgment; that your Majesty's recovery must be by the medicines of the Galenists and Arabians, and not of the Chemists or Paracelsians. For it will not be wrought by any one fine extract or strong water, but by a skilful compound of a number of ingredients, and those by just weight and proportion, and that of some simples which perhaps of themselves or in over-great quantity were little better than poisons, but mixed and broken and in just quantity are full of virtue. And secondly, that as your Majesty's growing behind-hand hath been the work of time; so must likewise be your Majesty's coming forth and making even. Not but I wish it were by all good and fit means accelerated, but that I foresee that if your Majesty shall propound to yourself to do it *per saltum*, it can hardly be without accidents of prejudice to your honour, safety, or profit.[1]

Lastly, I will make two prayers unto your Majesty, as I use to do to God Almighty when I commend to him his own glory and cause; so I will pray to your Majesty for yourself.

The one is, that these cogitations of want do not any ways trouble or vex your M's mind. I remember Moses saith of the land of promise, That it was not like the land of Egypt that was watered with a river, but was watered with showers from heaven; whereby I gather, God preferreth sometimes uncertainties before certainties, because they teach a more immediate dependence

[1] Here the fair copy, which has begun to grow less fair in the course of the last few lines, ends in mid-page without any mark of ending. The draft, of which the beginning will be found in the same volume, fo. 232, and the end at fo. 8, goes on as in the text. I presume that Bacon made a fresh copy of the whole and sent it to the King.

upon his providence. Sure I am, *nil novi accidit vobis.* It is no new thing for the greatest kings to be in debt; and if a man shall *parvis componere magna,* I have seen an Earl of Leicester, a Chancellor Hatton, an Earl of Essex, and an Earl of Salisbury all in debt; and yet was it no manner of diminution to their power or greatness.

My second prayer is, that your Majesty in respect of the hasty freeing of your state would not descend to any means, or degree of means, which carrieth not a symmetry with your majesty and greatness. He is gone from whom those courses did wholly flow. To have your wants and necessities in particular as it were hanged up in two tablets before the eyes of your lords and commons, to be talked of for four months together; To have all your courses to help yourself in revenue or profit put into printed books, which were wont to be held *arcana imperii:* To have such worms of aldermen to lend for ten in the hundred upon good assurance, and with such * *,[1] as if it should save the bark of your fortune: To contract still where mought he had the readiest payment, and not the best bargain: To stir a number of projects for your profit, and then to blast them, and leave your Majesty nothing but the scandal of them: To pretend even carriage between your Majesty's rights and the ease of the people, and to satisfy neither: These courses and others the like I hope are gone with the deviser of them; which have turned your Majesty to inestimable prejudice.[2]

I hope your Majesty will pardon my liberty of writing. I

[1] I could not make out this word. 'Entreaty'?

[2] The passage which followed here is struck through with Bacon's pen. Birch had printed it, but at the request of Lord Hardwick cancelled the leaf, and filled up the space with a note of his own, containing a kind of protest against the foregoing censure of Salisbury. Whatever reason there may have been for suppressing the passage at that time—and I do not myself see any (for it does but tell us of something which Bacon felt, but thought it better to leave unsaid)—there can be no doubt now, since the publication of Lord Hardwick's letter to Birch [Life of L. Ch. Hardwick, vol. iii. p. 437], the terms of which would lead any one to suppose that the cancelled leaf contained something very discreditable to Bacon, that it ought to be published. The words are—"I protest to God, though I be not superstitious, when I saw your M's book against Vorstius and Arminius, and noted your zeal to deliver the majesty of God from the vain and indign comprehensions of Heresy and degenerate philosophy, as you had by your pen formerly endeavoured to deliver Kings from the usurpation of Rome, *perculsit illico animum* that God would set shortly upon you some visible favour, and let me not live if I thought not of the taking away of that man."

Bacon's judgment of Salisbury's financial policy may have been wrong; but there can be no reason now why we should not know what it was; and we could not have better evidence of what he really felt than the setting down and then striking out of a passage like this.

know these things are *majora quàm pro fortunâ:* but they are *minora quàm pro studio et voluntate.* I assure myself, your Majesty taketh not me for one of a busy nature; for my state being free from all difficulties, and I having such a large field for contemplations, as I have partly and shall much more make manifest to your Majesty and the world, to occupy my thoughts, nothing could make me active but love and affection. So praying my God to bless and favour your person and estate, &c.[1]

3.

Of the "joint account" alluded to in the first paragraph of the last letter as about to be given by the sub-commissioners to the Lords of the Council, there is a manuscript copy in the Cotton collection. And though conclusions in which several have to agree cannot be assumed to represent the personal judgment of every one, it seems probable that in this case Bacon had enough to do with the report to entitle it to a place among his writings of this nature. We have seen that it was not in this direction that he himself expected to find an effectual remedy; the remedy in his opinion must come from Parliament. But as it had been decided to try this course first, it was not the less important that it should be tried out; and the very expectation that it would fail would be a motive with him for exhausting its possibilities of success, and depriving its advocates of all plausible ground for wasting more time in the attempt.

There are no signatures to this copy of the report, nor are the names of the sub-commissioners mentioned. But I find it stated in a letter of Chamberlain's, dated 11 August 1612, that there was a commission out till the end of the month "to Sir Thomas Parry, Sir Julius Cæsar, Baron Sotherton, Mr. Attorney, Sir Francis Bacon, Sir George Carey, Sir Walter Cope, and two or three more, to devise projects and means for money."[2] If these were the sub-commissioners, it is the more likely that Bacon had a principal hand in guiding their deliberations and framing the report.

ACCOUNT OF THE COMMITTEES FOR REPAIR OF THE KING'S ESTATE AND RAISING OF MONIES.[3]

It may please your Lps: we do find the heads of service re-

[1] Docketed in Bacon's hand, "Letter in general touching his M. estate and want:" no date. But on the other side of the leaf, not in the usual docketing place, some later pen has written, "Copy of a lre to the Kinge 6 Aug. 1612:" a mistake which accounts for the disarrangement of the sheets, and the printing of the last sheet of the draft as a fragment of another and an earlier letter.

[2] C. and T. of Jas. I., i. 194.

[3] Cott. MSS. Cleop. F. VI. f. 82.

ferred unto us by your Lps concerning the raising of benefit to his Ma^ty^'s estate by way of improvement or addition, to fall upon 4 natures.

1. Disinherison of the King by Concealments and detainers of his right.
2. Revenue revealed, but not improved.
3. Tenures, with their incidences and other casualties.
4. New projects.

And having sorted the particulars according to this distribution, thereby to make our certificate both the shorter and the clearer, we shall now give your Lps account of our labours upon every particular head; wherein agreeably to that which we conceive to be your Lps end (which is as well the giving of some light what his M. may expect for the time to come, as the putting of things in some way to be ordered for better profit than they have been for the time past), we have thought good to observe this order; first, to set down an estimate where it could be probably made, together with the grounds of the said estimate; and then to set down our advice, with the reasons of the same, where we thought it needful; whereby we hope we have brought things a degree nearer to receive from your Lps wisdoms both a better judgment upon the estimates and a more perfect order upon the thing advised; And if your Lps do find (as needs you must) our information in some parts unperfect, your Lps will be honorably pleased to take knowledge, that in many things there was requisite both long search of accounts and otherwise, and sometimes the presence of some persons that could best inform, so that were our care never so great, it could not overcome things to perfect them at this present time, but yet we conceive it may serve for an effectual preparation to your Lps further directions.

[I]

Touching Concealments and the Disinherison which his Ma^ty receives thereby, the first head is

ASSERTS.

The Estimate.

The present profit being about 1500*l.* per annum we esteem an

increase may be made of 1500*l.* per annum more for 7 years after 6 months.

Ground of this Estimate.

The undertaking of Mr. Nicolson who hath been the man employed in this service.

Secondly, the proportion between that part of the service w^h^ he hath gone through with and that which remaineth; for the number of forests and chaces of this realm being about 80 he hath compounded for 15 only; though it is true some of those are of the greatest of the kingdom.

Advice.

Finding by experience that the service hath heretofore been performed by Mr. Nicolson with reasonable benefit, and without clamour; we advise for the present no other new course; but that his service, which hath for a time been suspended, may now proceed with effect. And although by the great proportion of the forests which yet remain in respect of those already dealt in, it is probable a greater sum might be made for those 7 years; yet we dare not advise the employing of new men, or more men, in a business of this nature, as the time doth stand.

The second head is

DEFECTIVE TITLES.

Estimate.

The present profit hath risen to about 1000*l.* per annum, an increase is conceived may be made of 3000*l.* yearly more for 5 years.

Grounds of this Estimate.

The undertaking of Mr. Tipper, with this further probability, that whereas the service in former times, as well by his M. proclamation as otherwise, hath received divers interruptions, now, way being given to certain reasonable demands for the furtherance of the service, some increase is like to follow; but of this we have no further warrant.

Advice.

There are certain articles tending to the furtherance of the service allowed by the Commissioners, and ready to be showed their Lps, the observance of which articles is all we shall advise in this point.

The third head is

SURROUNDED GROUND.

Estimate.

The present profit is none; but there hath been offered in Parliament by Mr. Jerbie, a gentleman of good experience in Lincolnshire, a sum in gross of 20000*l.* for Lincolnshire and some counties adjoining; though since (by likelihood upon some other hopes) he hath been unwilling to make good his offer.

Secondly, it appeareth by survey made by assent of inhabitants (as the Commissioners of Survey have informed) that in Lincolnshire, which is but surveyed in part, there are returned 55,000 acres of lands of that nature: but how much of that upon examination will be found subject in law to the King's title, is doubtful; as also what further quantity of like lands there is, both in other parts of that county and elsewhere in the kingdom.

Advice.

Because divers towns in Lincolnshire have heretofore petitioned to be received to composition, we advise that letters be written unto those towns severally, signifying the King's intention to proceed to raise benefit of his inheritance of that kind, and to admit them to composition.

It is further advised that for the better strength of his M's title, there be choice made of cases of the clearest nature, and thereupon suit brought against persons that formerly stood out, and so the King's title to be established by a judgment.

The fourth head is

TITHES OUT OF PARISHES.

Of this we make no estimate at all, because such tithes as may become due to his M. of that nature, seem to be charged by the intention of law to be employed to the use of the Church, whereof it may please his M. to take notice; we mean for so much as is not at this time employed to the use of the Church, but is detained by private men.

The fifth head is

ENCROACHMENTS.

Estimate.

Present profit there is none at all, neither have we any ground

whereby to make estimate thereof, although we may probably conceive that as well in great wastes as in and near towns there be many Encroachments to a great value.

Advice.

Considering the case is of a tender nature, we dare not advise for the present any proceeding to raise benefit thereby; the rather because there is a commission with divers qualifications already granted for one manor only, upon the return and success whereof judgment may be better made of a further proceeding.

Also we thought fit that Mr. Nicolson in the execution of his service may, *tanquam aliud agens*, inform himself of encroachments of lands adjacent; but this only in case where he shall be sought unto by the tenants, whereupon also light may be taken for further proceeding. We understand also of some service of that nature that hath been effected in the Duchy, whereof time would not give us leave to take information.

[II]

Revenue in charge but not improved.

REVERSIONS AND REMAINDERS UPON STATES IN TAIL NOT SPENT.

Estimate.

Of this there hath not lately been made any profit, save that some suits have been granted of that nature. We conceive that there may be made, by way of sale of inheritance of this nature, the sum of 91000*l.*, which sum nevertheless may in probability receive both great additions and some deductions.

Grounds of Estimate.

There hath been brought unto us by the Auditors of Exchequer a computation of Reversions and Remainders, whereof the ancient value of the lands is 6081*l.* per annum, which cast up according to 15 years purchase, after the rate of former sales that suitors have made, doth amount unto the sum aforesaid of 91000*l.* and somewhat more; which we understand to arise simply for the reversion, continuing still to the Crown the tenures and rents if any be.

For addition to this sum, the entails so brought in as aforesaid, appear to have been created since 27° H. 8; so there are to be put to account by way of addition all entails of a more ancient creation, which may be many.

There are also to be put to account entails in the Duchy, which were not comprised in the former account, the certainty of both which additionals require such search as could not be made ready for the present.

Out of the former sums together with the additions, deduction is to be made of some sales and grants of suits that have passed, whereof we could not for the present take particular notice.

Advice.

Whether his M. shall make benefit of inheritance of this nature by sale in gross without reservation or improvement of rent, or by reservation and improvement of rent, or mixtly, we humbly leave to your Lps judgment; but we do wish that none pass of this nature wherein there are not 7 lives in being inheritable unto the entail.

WASTES AND COMMONS.

Estimate.

Of this we can make no particular estimate, because that would require surveys and certainties, which we dare not for the present advise, although we conceive it to be a thing of very great benefit both for the King and the kingdom.

Advice.

If it be thought fit to have a proceeding in this kind, we think the most convenient way were, that as well the surveys were made *aliud agendo*, and not particularly for this purpose, as also that the proceeding were *seriatim;* one manor after another, and not by any more general commissions. And lastly that it were put in practice, where the tenants themselves either out of their own notion or by some discreet preparation shall be petitioners for it.

COPPICES AND UNDERWOODS.

Estimate.

Of this we can make no particular estimate, as well because we

shall incline to advise both the raising of a sum in gross and raising likewise of an annual revenue, as also because it would require a more perfect and faithful survey than hitherto is made for the grounding of an estimate.

But this light we have. Treswell hath brought a survey, containing a distinguished account of 47232 acres of ancient enclosed coppices woods already surveyed, comprehending in that total as well the ancient enclosed coppices in forests and chases, as also in manors, and as well in lease as out of lease, of which sum of acres there are 26000 or thereabouts out of lease, and the residue in lease; So that his M. may make present benefit of that which is out of lease.

In this survey, first there is not contained any common woods incoppiced by statute, but only ancient coppices woods.

There is not contained any coppices woods of the Duchy.

Lastly this survey is very unperfect, for there be but a very few shires that have been wholly surveyed, and a good number of shires are not surveyed at all; So that it is very like the sum aforesaid will receive great additions. But then it appeareth not upon the survey how many of these coppices are within the Q: jointure, or the Princess possessions, or those lands assigned to the D. of York.

Advice.

We do conceive the safest and best course of raising profit to his M. by his coppices, is the putting of them in lease, rather than to make sale of them by officers or commissioners. The leases we conceive should be for the term of 31 years or 3 lives; because by common increment (?)[1] in that time, the farmer may have two cuttings. In which case we do humbly offer to consideration the points following.

First that good care be taken of his M. security both by provisions and clauses inserted in the leases, as by collateral security, where it is requisite; because reentry, which in other cases is the strongest security, is in this case the weakest, for many times when they have stripped the wood of saleable growth, they would be glad to be rid of the soil; and this security is to respect not only the payment of the King's rent, but the preservation of the

[1] *Judgment* had been written first; which has been corrected by another pen and ink into something which may be 'increment.'

springs, for which purpose his M. learned Counsell will take it into their special care to devise a form of assurance safe for the King and yet not so strict as to discourage men to take.

Secondly, we are of opinion his M. profit will best consist as well of fine as of rent; both because the fine taken beforehand is the greater tie upon the farmer, and doth fortify the reentry (for then he leeseth his fine), and chiefly because woods differ from other possessions in that they may have present crops of several growths, which may be most fitly considered in the fine.

Thirdly, not finding the surveys already taken of sufficient certainty, we wish some course to be taken for a more exact survey, for which purpose offer hath been made by Treswell to make perfect surveys for all coppices woods on this side Trent, and to finish the same before Michaelmas come twelvemonth, at the charge of 400*l.*; and we think fit that in the mean time there be a present inhibition and cessation of wood-sales of any coppices woods in the King's hands.

Old Houses and Castles.

Estimate.

Of this we can make no estimate, both because we have no surveys nor informations to give light, which shall be continued and which shall be sold, nor likewise of the values of the materials of those which shall be designed for sale.

Advice.

We humbly offer to your Lps consideration, whether it be not fit that the Lo: Admiral, the M^r^ of the Ordinances or such other as your Lps shall appoint, may first make certificate how many of them are to be continued in respect of service. And for such as shall be thought fit to be sold, that some offer be made to the counties or towns of preferment of the purchase to be employed to gaols or other public uses.

[III.]

Tenures and other incidents with other casualties.

By-Rents as corn, days works, etc.

Estimate.

These appear to be a small matter, the annual revenue of that nature certified by the Auditor amounting to 178*l.* per annum.

Advice.

We can advise no better course for raising some increase of profit than to put them in lease; it requiring the industry of private persons to look into things of so small value and so variable a nature.

PERQUISITES OF COURTS.

Estimate.

For estimate, we find in the year ending at Mich^{s}. 6° Jacobi, profits of this nature have amounted to 421*3l.*, not comprehending the Duchy. We find also the fees and allowances to Stewards and Bailiffs to be 4229*l.*, whereby it is manifest the charge exceedeth the receipt. And to give your Lps a better taste of the great loss the Crown hath received in the gathering of revenue of this nature, there hath been produced unto us a note extracted out of the years of Q. Elizabeth *a primo ad* 40^{m}. of all the Auditors' offices except the western circuit, and that about London; during which 40 years the profits of the fines and amercements did amount to 34575*l.*, and the fees and allowances of officers for the collection thereof did not only swallow up the whole profit, but did cast upon the Crown a charge of 25504*l.* more.

Advice.

For advice, we conceive the best course for raising profit of perquisites of Courts is to put them in lease for some short time: whereby the charge will cease, and the profit is like to be improved by private industry; which may afterwards be used for a precedent to the King for further improvement when the leases should expire.

OUTLAWRIES.

We hold it a matter worthy the consideration, but we have not been able to cast it into such a frame, as we dare advise to be safe and convenient.

TENURES AND OTHER CASUALTIES.

ALIENATIONS.

Estimate.

We are informed by the officers that there hath been an im-

provement this last year, beyond the former years, of 1500*l.*, and hope is given by them that *sine strepitu*, and with reasonable using of the subject, there may be further improvement in good measure.

Advice.

It is desired by the officers of the Alienation that a Proclamation like unto some Proclamations that came forth some two years since, should be published concerning Alienations, which are not of record; whereof hitherto the King hath had small benefit: which motion as we do allow, and have thought of some additions to the Proclamation for the King's better service, according to their desire, so nevertheless we wish it forborne for a time.

Issues Royal.

Estimate.

We do find that the whole charge that is put in process of this revenue is about 4000*l.* per annum, whereof 2000 marks, amounting to a third part or thereabouts, is only answered, and the rest excused; of which rest about 700*l.* per annum is put over to several Liberties, and 800*l.* is put over to the Duchy.

Of which 700*l.* there is good hope of improvement by perusing the Charters of Liberties, because it is probable the most part have not this royalty contained in their charters.

But for the 800*l.* turned over to the Duchy, if it be duly turned over there can be no present improvement made, because it is already let out in farm.

There is also 900*l.* per annum nihiled; wherein it is likely there may be some service of improvement by taking away the abuses of these returns.

Advice.

We do only advise that the Charters of Liberties be looked into by the learned Counsel, and that some conference be had with the Barons, for repressing of the abuses of the Nihils.

Mint and Silver.

Touching the bringing of Silver to the Mint, we have had both the merchants and the mint men before us; and we have

been by the merchants informed that in their conceit, if the King would abate 6d of his coinage for silver at his Mint, his Maty were like to receive as much or greater profit in the increase of quantity as he shall lose by the abatement of his price in coinage; but because they did not speak it in an undertaking and confident manner; and because the mint men do likewise oppose unto it, doubting that it would work little effect, and might hinder the plentiful coming of gold to the mint, we dare not advise any alteration, but think it worthy of your Lps better consideration.

There was also incidently propounded by the Merchants to have certain Spanish silver coins, being of as good or better touch than our own, to be made current by Proclamation, for encouragement of importation and plenty in the realm; But because it is a matter of State and not referred unto us, we did not entertain it in consultation.

For other means of drawing silver to the Mint, we leave it unto the former certificate of Mr. Chancellor of the Duchy and Mr. Sollicitor, which was both by the merchants and the mint men, being read unto them, approved.[1]

[IV.]

New Projects.

Busses.

We conceive the proposition to be of very great hope, but we take it that which was referred unto us was not to consider of the main business, which we conceive to be rather a matter of estate than matter tending to the K's present profit, which is the proper subject of our labours. And therefore leaving the dispute of the matter itself, we took into consideration the privileges which were desired: wherein for the general, we do not deny but that which must be undertaken by private purses needeth the comfort of the more privileges; but in the particular examination of those privileges we fell upon a main stop and impediment, which did arrest our further consultation: which was, that the Company of Busses desireth a free trade, as far as concerneth their own fishing, as well in exportation to all foreign parts, as in the importation of all foreign commodities whatsoever by way of return for their fish, as the procidewe[2] thereof. Whereupon

[1] See above, p. 255.

[2] So MS.: a mistake perhaps for 'procedure.' Compare p. 335, l. 20.

we making doubt that the largeness of that desire might cross divers charters already granted under the great seal to divers companies of merchants already established, or otherwise that it might tend to their discontentment, thought it necessary to have the merchants before us, to accommodate it (if it were possible) by consent. Whereupon there attended us persons of good quality, for the company of Merchants Adventurers, of the French and Eastland merchants, and of the companies of Muscovy and Turkey; who did all severally, directly, and mainly impugn that privilege; and did conceive and maintain it to be contrary to their former liberties, and prayed the benefit of their charters; though to our judgments some alleged stronger, some weaker reasons; whereupon finding no hope of reconciling the question, we are humbly to leave it to your Lps consideration.

Usury.[1]

We have seen variety of projects in this kind, but could not satisfy ourselves that any of them could be so framed but will tend to a great discouragement and decay of trade and merchandise, which is principally maintained upon credit by the younger sort of merchants, insomuch as the very noise and speech thereof was conceived might be hurtful. And whereas there was some remedy propounded for one of the principal objections against all those projects (which is the disclosure of men's estates) that it might be avoided by the raising of a Bank or Exchange, whereby the borrowing might be the more secret; we did find a great inconvenience that will ensue upon that remedy. Forasmuch as the younger sort of traders who may have particular credit with friends, or certain persons, cannot be like to have a general credit with the bankers; the rather because it cannot but appear to them who they are that are often borrowers, and thereby the weakness of their estates far more discovered by that means than when they borrow of general persons.

Apprentices.

We have received in this also variety of projects, for the raising of benefit as well upon an office of enrollment for the indentures of apprentices, pretended to be grounded upon the Statute 5 Eliz: as upon another branch of the same statute, against

[1] *Usurpe* in MS.

those that use trades having not served seven years; but we could not satisfy ourselves in either point that profit could be raised, notwithstanding many cautions and limitations propounded unto us, without great inconvenience; the rather for that it would be the first and leading precedent of profit in generality made by a penal law in his Ma^tys^ time, otherwise than in ordinary form of law.

STARCH.

We have examined what profit may be made to the King upon Starch in two natures; either by imposition at the port upon foreign starch imported, with a prohibition of making starch within the realm, or by a corporation of Starchmakers within the realm, with privilege of sole uttering of starch and payment of some profit to the King. Thereupon we have considered as well of the convenience as the point of law incident to this proposition.

And for convenience, which might be best understood from men of experience, we had before us some of the late Corporation of Starchmakers, from whom we received information in three points.

First that that corporation had continued about two years and a half, during which time the profit to the King was answered.

Secondly that the price of starch during the time the corporation stood, was much about that rate that now it is.

Thirdly that for matter of nuisance, starch was now as generally made and with like inconvenience or more than while it was under government by means of the corporation; which informations how true they are we cannot affirm.

For the point in Law, we cannot find any ground of prohibition, but it must be one of these three; either that the common law forbiddeth it: or that the Statute law doth forbid it: or that the prohibition must rest only upon the King's prerogative and proclamation.

And if the prohibition should be grounded upon the common law, then it must be held *malum in se*, and so not to be dispensed withal; if by statute law, we find no other statute but that of 5 E. 6 of engrossing and resale; and the grounding of a prohibition upon that law hath received a blow by a judgment in the Common Pleas; so that it must fall upon the strength of a Pro-

clamation; which how convenient it may seem at this time we leave to your Lps consideration.[1]

4.

Upon the other project for improving the income of the Crown by "conversion of its revenue of land into a multiplied present revenue of rent," Bacon drew up a separate report of his own; of which also there is a copy among the Cotton manuscripts, though it has never been printed. About this there can be no doubt that it belongs properly to this collection, and that its proper place is here.

A PROPOSITION CONCERNING THE AUGMENTATION OF THE KING'S YEARLY REVENUE BY CONVERTING OF HIS LANDS INTO A YEARLY FEE FARM RENT MULTIPLIED IN PROPORTION TO THAT WHICH HE NOW RECEIVETH.[2]

This proposition is of great consideration; for it trencheth into the substance and gross of the King's estate, and being done can be but once done. *Deliberandum est diu quod statuendum est semel.*

To consider thereof exactly, as the weight of the matter requireth, it cannot be but by considering of it in order.

1. First, of the rate of augmentation that is probable will be given.
2. Secondly, of the profit that will redound to the King, if those rates be obtained.
3. Thirdly, of the exceptions which are convenient to be made; viz. what natures shall not be meddled withal.
4. Fourthly, of the manage and execution of it, for the inducing of men to the best rates; with other points of caution.
5. Fifthly, of the security.
6. Lastly, what may be said for and against it.

Concerning the rates, they will be variable, chiefly according Rate of Augmentation.

[1] No signature, nor date, nor docket. The heading is in the hand of the person who arranged the papers in the volume (Sir R. Cotton himself, I think); but there is pasted upon the first leaf (as if it had belonged to the original paper) a patch with these words—"Report by the Com. to the Heads of Profitt."

[2] Cott. MSS. Cleo. F., vi. p. 119. Copy in the hand of one of Bacon's scribes. In the margin, opposite the title, is written (in the hand, I suppose, of the collector) "*Sir Francis Bacon's discourse,*" and at the end, "*by Sr Francis Bacon in his owne hand.*" Which is a mistake.

as the land is charged more or less with estates and leases, and as the possessions consist more or less in demesne or rents, and those rents free or copy, and those copies upon arbitrable fines or upon fines certain, and somewhat likewise upon the conceit and customs of several countries. But to make a temperate *medium* by way of estimate, leaving the particulars to their proper value:—

It is not unlike that where the possession is charged with estates and leases of 30 years and under, or 3 lives or fewer lives, it will yield 4 for one. As if the manor or farm of *Dale* be now demised at 100*l.* per annum, the King may reserve 400, including the 100. And if the estates out be between 30 and 50 years, or upon years and after lives that may be esteemed to the like continuance, it will yield 3 for one, and if the estates be above 50 years and so upwards, it will yield 2 for one. This is to be understood of a *medium* of the gross, taking the better and richer to help the worse.

Now there appeareth to be remaining in the King at this time manor or farm land which was part of the annexation, to the annual value of 2672*l.* per annum, also land assigned to the Queen to the value of 424*l.* per annum, upon which it will be more difficult to set a rate, because of the liberty the Queen hath to make leases, which she hath executed in part and not in all, and may from time to time execute in all as well as in part. There is other land out of the annexation both in the Exchequer and the Duchy, and also ancient custody land which may hereafter be added to this account.

But the total of the annexation land to be wrought upon, is 3097*l.* per annum. This trebled, which is the middle rate between 4 and 2, doth produce a total revenue of new and old to 9292*l.* The augmentation of new revenue besides the present revenue 6194*l.*

Profit arising to the K. by this augmentation of rent simpliciter.

For the profit, it is to be considered in two kinds. That is, *simpliciter; et rebus sic stantibus.* For the profit simply, considering it as if it were in the hand of a subject, the soundest course to discern and make judgment of it is to turn the land as it now stands into a sum in gross, as if it were upon a sale, and the rents likewise with the augmentation into a sum in gross, as if it were upon a sale, and to collate those two sums,

whether is the better; for that is the true and direct rule of values, *Tanti res vere valet quanti vendi potest.*

First therefore, as we made three degrees of values when we spake of the annual rent, viz. according as the land was charged with estates more or less, so let us make the like of the value in gross, as upon a sale, viz. that the land charged with estates of 30 years and under, or three lives or fewer, may be sold in a medium for 50 years purchase. The lands charged with estates between 50 years and 30 may be sold for 40 years purchase. The lands charged with estates above 50 years may be sold for 30 years purchase. Of these likewise take the middle rate (as we did in the annual value) which is 40 years purchase; Then turn the annual rents likewise into a price, esteeming the fee farm rents at 15 years purchase.

For example, Let the manor of Dale be of the rent of 100*l.* per annum. This sold at 40 years' purchase will yield 4000*l.* Now treble the rent of 100*l.* which makes 300*l.*, that sold at 15 years purchase yields 4500*l.*, whereupon it is manifest that in a 100*l.* land, there is 500*l.* gain in the sale of the rents above the sale of the lands. Therefore let no man say that this course of turning land into rent, though it may be good for the annual receipt, will hinder the Crown in succession, if at any time there were occasion of sale, for it bears his advantage as well in the gross by way of sale as in the annual by way of revenue.

It is true that these rates of sale which I have set down, I ground somewhat upon the contracts which have been made of 3 degrees, viz. 45, 30, and 22. But because sales at large do ever exceed sales by contract, for that in contract the ready payments gain upon the pennyworth, and secondly because the lands that[1] remain in the annexation, I suppose is of the best sort and therefore will bear a better price than that which is sold, I have given them a better rate in the purchase. And if it be thought they may bear yet a better rate than I have given them, it may be as probably thought they may also bear a better rate in the improvement of the rent, so as that will make no error. And thus much touching the profit upon the exact and simple value.

[1] In MS. 'that' has been struck out and 'the lands' written over it. I think the corrector meant only to turn 'land' (as it stood originally) into 'lands;' but struck out the wrong word.

Profit arising to the K. rebus sic stantibus.

But now, *rebus sic stantibus*, as the K. makes of it, the profit is far greater.

For the profit that the K. makes of his lands over and besides the rents is of 2 natures.

Fines upon the renew of leases upon expiration or surrender, w^h^ is proper unto the demesne lands;

and

Perquisites of Courts, w^h^ are proper unto the services or royalties.

For the former, let some years be chosen in Q. Elizabeth's time, when leases were suffered to wear out towards an end, and so an ordinary profit was made by commission of leases for 21 years and 3 lives upon surrenders, and take a medium of those years, and it will be found to come nothing near the sum which would have risen of those things for which fines were taken, if their rents had been trebled as is now propounded. But take it as the case now stands, and that profit is so suffocated with length of leases and estates upon estates, as little profit of that nature will be taken for many years.

And for perquisites of Courts, they may be set on the left hand for caukers of revenue and not feeders of revenue; for there hath been made a computation of 40 years of Elizabeth viz: *a primo ad* 40^m^, by which it doth appear that the rewards, wages, and allowances, for the gathering of profits of that nature, did not only drink up all the profit but cast a decrement upon the Crown of 25000*l.*; and the case is not much better now since his Ma^ty's^ time.

Exceptions of things not to be comprised.

For the exceptions, I take it in reason they must be

All his Ma^ty's^ houses of access, with some scope and countenance of demesne about them.

All forests.

All great wastes and commons.

These two exceptions of forests and wastes I hold necessary not only in point of honour or his Ma^tys^ pleasure, but because hereafter great improvements may be made of them, and because they cannot properly belong to this proposition, if a man observe it right, for that they are things not valued in the rents which are now answered;

and this project extendeth to no more than to improve and extend rents.

All timber trees whatsoever are to be reserved, but yet to be sold by a bargain apart within a time; for no man will endure to buy land with an exception of trees perpetual.

All the principal timber plots and places throughout the Kingdom which are richly planted with timber fit for his M. navy or other buildings and works. These to be excepted, Trees and Soil.

Manage and execution of the business.

For the manage of this business I will divide it into 3 parts. The Publication; the Treaty and Bargain; and the Cautions and Limitations.

Publication and notice.

For the Publication, proclamations in matter of revenue and profit, I think the King hath reason to be weary of. They are grown to be taken as mendicant offers, whereas this ought to be so carried as rather men should be suitors for it than have it put upon them, it being so much for their own good; and therefore notice ought to suffice, without any special show of invitation.

On the other side, it is not without difficulty, how this intention of the King shall be published without a proclamation, but either the publication will be too slow or to disadvantage; for if it be only by a commission here above granted to principal commissioners and no more, the notice will be somewhat slow; if publishing and signification of it be committed to Auditors in their Circuits or Stewards at their Courts, they are men not to be trusted, for to them it is *fundi calamitas*, it pulls them down, and therefore they will poison it what they can.

Again, to write letters to every particular farmer of land I think not so convenient; for first it descends too low, and then it doth give them a little too much hold, as if the K. could or would deal with none but them.

Therefore I hold the most convenient course of notice to be, that after the commission is granted here above, letters be written from the commissioners to some two or three particular sufficient gentlemen in every county, with a note enclosed of the farmers and tenants of the King's lands in that county, requiring them to give notice of the King's intention and commission, as well to the farmers and tenants as to gentlemen that have livings adjacent, and otherwise as they shall think fit.

The Bargain.

For the Treaty and Bargain, certainly it were fit it were made with the farmers if it may be, both because in honour and conscience it were better the possessor were established than another to come in over his head; and because it may justly be doubted that no man else will be forward to deal with the King. For it is not every man's case to be willing to charge himself and his estate with a payment annual for many years together, for which he shall receive no profit at all: for although many can be content to give a sum of money for a dry reversion for posterity's sake, when they find their purse strong, and the payment made their pain is past; yet to subject themselves to an annual charge and payment for a long time, it is more harsh.

On the other side, the dealing with farmers and those that have estates hath two inconveniences; the one that they will conceive that the bargain is fit for no man else, and so will offer the less; the other is the perplexity and difficulty which will be found, where there be divided estates, as where there be estates for lives *successivè*, or where there be leases in possession to one and reversion to another.

But as for divided estates, it may be that emulation or competition will do the King no hurt; though for my own opinion I think he that hath the immediate interest next to the reversion in fee, is like to be the best man, for he when he is once in shall continue, the other shall be in and out.

Again, for those that have nothing at all in the land, but are strangers, yet no doubt there will be found men of full estates that will be content to take the reversion in fee simple, although it be charged with an annual payment for some time. For it is but like the case, as when a man purchaseth a reversion, where perhaps there is a lease for 100 years in being, with a red rose or a pepper corn reserved, and yet nevertheless he shall pay perhaps a tenth or chief rent to the Lord. So for this point, with whom the King shall deal, the commission must be without restriction, and without so much as an instruction of preferment of tenant or other, but left to the commissioners to take the best offer for the King.

The Limitations and Cautions.

For the Limitations and Cautions, there be but two principal. The one that there be a good large time left for the King to sever and sell the Timber, for if he shall do it suddenly I fear he will be much abused; and this time I would think should be 5 years at the least.

The second is, I would have it set down positively that at the least one third part of the K's lands thus fee farmed be with a reservation of a Tenure by Knight's service in capite; one other third part by Soccage in chief; and one third part only at the most by Soccage as of a manor. The application of this in particular may be left to the discretion of the commissioners to make use of it for the King's best service, with some instruction to reserve upon the stateliest and best things the best tenures; but the distribution I wish to be positive, which if it be done, this project, besides the other profit of it, will yield to the King a great augmentation of revenue in his Wardships, Liveries, and Alienations.

The security.

For the Security, I meet with a shrewd difficulty, for it is clear in law that if there be a rent *de novo* reserved upon the fee simple, it is not chargeable upon estates that were granted precedently; so as the King shall not have his ordinary remedy of distress or seisure upon the land during such precedent estates, which point drives the King almost to a necessity to deal only with the farmers; and in that case also, where the estates are divided the same difficulty remains.

But nevertheless I am still of opinion that the King should not be bound to the farmer: for that would shrink his bargain exceedingly; neither is it a weak security of the K. when he deals with strangers, making his choice of landed men, to join together with the reservation upon the land so granted (which will be good whensoever the estates are expired) an assurance in the mean time of a rent-charge out of other lands to a competent value, which course taken (considering also the K's prerogative by law, whereby he may distrain for his rent over all the lands of his Tenant charged or not charged) may be held for a sufficient assurance.

The Arguments pro et contra.

There remaineth now to consider the reasons for and against this proposition, and first for the proposition.

Reasons for the proposition.

1. The principal reason is, the great addition of revenue that will be raised hereby in certainty to his Majesty, amounting to the sum of 60,000*l.* at the least annual, towards the supply of the inequality of his revenue.
2. Another reason is the addition likewise which will ensue to

the casual revenue of Wardships, Liveries and Alienations, which must needs grow upon so many new tenures created.

3. A third reason is that it is like to be good for the commonwealth, and the patrimony of the kingdom, because men will improve, husband and manure the land better when they are owners than now that they are but farmers.

Reasons against the proposition with the answers.

For the arguments against the proposition, there are many and weighty.

Obj. 1. First, it may be in popular account taken for a dishonour for the King to become no more a King of land but a King of rents, and to be put as it were to his pension and stipend, whereas divers of his subjects shall be great lords in demesne and service.

Resp. To this it may be said, That point of honour must give place to point of substance; That the K's royalties in respect of Tenures shall be multiplied and increased, and not diminished; That the command of Sovereignty is of that high nature, as it drowneth all other commands, and therefore needeth not the support of those petty commands of suit to Court Barons or the like, which subjects may be glad of; That for the matter of demesne, if the King's houses of access and lands about them, if the King's forests wastes and commons and principal timber plots of the kingdom, be reserved to him, for the rest it will be not much otherwise than it is now: for the King receives but rent now, and shall receive more rent then; That Kings in other countries do not much covet or esteem to be great landlords; That the Crown will fill again with lands by escheats, attainders, and the like.

Obj. 2. A second objection is, That if the King or his posterity should have any extraordinary occasion to raise money by sale of lands upon any necessity or important accident of estate, he shall not beable to do it.

Resp. This was fully answered before; for upon any such occasion the sale of rents will yield more money than the sale of the same lands, and men will be as glad and as ready to buy them.

Obj. 3. The third objection is, That although it might be good for the time present, yet it may be prejudice to the future times, when perhaps leases would wear out, and lands revert in possession.

To this it may be answered, That this augmentation of Revenue is no less good for the Crown than for the King, and for the future time than for the present. For I suppose when the revenue is thus established, his Ma^ty will make an annexation of it, as well as he did purpose to do of the lands; and we have had sufficient experience in Q. Elizabeth's time, which was a plentiful and frugal time, that the profits by renew of estates and accounts of stewards cannot possibly amount nothing near to so great a profit as this multiplication of rent in no time. Resp.

The fourth objection is, That at least for so much timber as shall be sold, that can never return; so as that is profit which can be taken but *una vice*, and so the Crown inwardly the poorer. Obj. 4.

To this I answer, that it is part of the proposition, that forests, wastes, and principal places planted with timber should be excepted; and for the rest it is very true, it is so much taken from the Crown, and therefore because his M. in this proposition may clearly appear to have an intent of augmentation of the Crown and not of disinherison, I wish that all moneys which shall be the procedure upon the sale of timber were never mingled with other treasure, but presently laid forth upon land, rent, or other inheritance to be comprised in the annexation. Resp.

The fifth objection is, That whereas now the King hath means to reward servants with books of leases or fee farms and gifts of lands, he shall have no more means so to do. Obj. 5.

To this I answer, that it will not be for the worst to turn those rewards into pensions, wherein he may both better discern what he gives, and which will wear out with lives. Besides, this reason cannot be fitly now alleged, when his M. by the late annexation hath debarred himself of further gift of land, and as for leases the states are so full already as tis matter of small consideration. And lastly, as was touched before, there will be continually coming in into the Crown new lands by escheats attainders and the like; which kind of land to speak truth is proper for rewards, and not lands of ancient revenue. Resp.

The sixth objection is, That when the King hath stripped himself of his land, he is the liker to come upon his people in taxes. Obj. 6.

To this I answer that the quite contrary is to be inferred: that his M. now by this means advancing his revenue towards the equal- Resp.

ling of his charge, shall the less need to trouble his people with contribution.

Obj. 7. A seventh objection may be, That the K. if he sell away the manor shall not be able hereafter by law to improve the waste, because the old statute gives the improvement unto the Lord.

Resp. To this I answer that the statute may be understood of the Lord of the Soil, and not the Lord of the Manor. But to take away all scruple, I wish that wheresoever there is a waste or common reserved to the K. there should be reserved so much of demesne and services as should not destroy it to be a manor.

Obj. 8. The eighth objection is the weakness of the security, because the King cannot resort to the land in respect of estates precedent.

Resp. This is answered before.

Obj. 9. The ninth objection is the point of divided estates, which breedeth a perplexity, with whom the K. shall deal.

Resp. This is likewise answered before.

Thus have I, as I conceive, embraced all the considerations which fall into this weighty proposition, wherein though I have endeavoured to undo every knot, and to make plain every difficulty; yet I would be understood that I am rather provident and diligent to make the best of the proposition than confident to persuade it.[1]

5.

The general hunt for ways and means of improving the revenue led to an examination of the condition of the Great Farms of Customs and Wines: in both which it was alleged that the Crown had been deceived in its bargain. The Lord Chancellor and the Earl of Northampton were appointed to enquire into the question; Bacon and Sergeant Montagu to assist them.

Northampton, now the principal medium of communication between the Council and the Court, seems to have been beginning to find the value of Bacon in such services, if we may judge from the pains he took (there being no other bond of alliance between them) to bring his merits under the personal notice of the King. In a letter to Rochester on this subject, written apparently on the 20th of October, he says—

[1] It is set down in the report of the sub-commissioners June 1613, among the "projects not likely to prove well." See the next chapter.

"I beseech you to move the King that in your next private letter to me you may give some touch of his M. gracious acceptance of the diligence and industry of the Solicitor in this employment; for though it be true that the Recorder shewed his endeavour with good will, yet to speak truly as I must ever do, yielding unto all men the fruits of their good deserts, this *mysterium iniquitatis* was pursued extremely well by the Solicitor, that met with tricks upon the choice points of their obliquity. I am put in trust with the care of laying open of this point, and therefore for a testimony of my discharge and an argument of his M. gracious acceptance of the party's endeavour, a character under your hand which I may shew to himself only will be authentical."[1]

The next day Ellesmere and Northampton made their joint report to the King; the whole of which (except the signatures and a postscript added by Northampton) being fairly written and directed in Bacon's hand, we may conclude that it was drawn up by him, and is therefore entitled to a place here.

The Lord Chancellor and Lord Privy Seal to the King.[2]

It may please your Ex. Ma^ty.

According to your H. pleasure to us signified, we have with the assistance of Mr Solicitor and Mr Serjeant Montague, appointed by your Ma^ty. to deal in this business, looked into the estate of your Ma^ty's two great farms; That of the Customs in general, and that of the French and Rhenish Wines. Wherein your Ma^ty will be pleased graciously to conceive that there hath been no time lost, if the deceits of eight years have been examined in the like or less number of days. And to give your M. an account of them severally: As touching that of the Customs in general, we find by the relation and information of your said learned Counsel, and partly by that we have seen, from the first lease taken (which was in the second year of your Ma^ty's reign) unto the present time, a chain and continuation of fraud in the Farmers, joined with loss and diminution of Treasure and Revenue towards your M. in such a quantity as we cannot look back upon so great a dissipation of your M. means without a great deal of grief, specially considering your present estate. So that, it appearing unto us that their former lease is expired, and

[1] S. P. Dom. James I., vol. lxxi. no. 16.
Docket, not in Bacon's hand. S. P. Dom. Jas. I., vol. lxxi., no. 18.

no two years or other remnant of term yet continuing in them as was imagined, we conceive that your M. is not only at liberty in honour to break with them touching the lease intended to be passed unto them (which went no further than your Bill signed), and so to take your best offer; but also that your M. hath great cause to call them to account for the time past.

And to give your M. a taste of the nature of the deceit, we think the *medium* which was the measure of your M. rent, had three notable falsities. For it was cast up according to years which were not indifferent; it was collected with omissions of divers merchandises, as well then in trade as since newly sprung and brought in use (the latter whereof though they could not be put to the *medium*, being not then in *esse*, yet ought they to have been provided for by a general covenant); and lastly and chiefly, it was made upon the old rates, whereas both the profit they have taken from the merchant and the allowances and defalcations which they have had from your Ma^ty^, have been according to the new. So as the rectifying of this *medium* according to the truth (which we are now about) will in one be both a ground how far to charge them for the time past, and a direction how to set the farm at this time.

For the lease of the Wines, helping ourselves likewise by the information of your said Counsel, we find shortly (not to trouble your M. with the particularities of the deceits) that *huc res redit;* that by cunning and circumvention they have gotten 7 new years besides those they had from my L. of Devonshire (for the confirmation whereof it seemeth they paid some small matter), without any fine paid; without any rent improved; without any consideration of merit or service; merely by tricks and shifts: which 7 years being to begin about 2 years hence, are not now less worth than fifty thousand pounds, and were (when they took them) well worth five and thirty thousand pounds: for which damage and fraud we conceive your M. may have relief by course of justice in equity, to call in their lease.

We find also by the opinion of your said Counsel, that their lease may be overthrown by law, upon divers points: which being opened unto us, we concur in the same opinion: upon which points though we know your M. would not take advantage if there were no more; So for the reversing of that which was

obtained by fraud and deceit, we think your M. may with honour use the benefit of your laws.

The proceeding herein we have hitherto kept secret according to your M. direction. But if your M. shall resolve to have a judicial proceeding, as well for the overthrow of the lease of the Wines as for the charging of the Farmers for the time past concerning the great farm of Customs, it will be necessary that your M^ty's Court of Exchequer, Mr Chancellor, and the Barons, and your Attorney (in whose name properly the information is to be brought) be made acquainted with it. Wherein your M. may be pleased to signify to us your royal pleasure with some speed, the rather because the first vintage being now very shortly to come in, the suit may be brought (if the manner of their defence and the course of justice shall permit it) to a sequestration of the profits before that time. And likewise your M. royal pleasure touching the removing of the late farmers requireth the more speedy declaration, because they may have some reasonable warning for their said remove.

Thus humbly praying your M. graciously to accept of our endeavours in this your service, we pray to the Highest ever to preserve your Ma. and ever rest

Your Ma^ty's most affectionate and loyal
subjects and servants,

H. Northampton
T. Ellesmere. Canc.

xi Oct. 1612.

We may not forget to give your Ma^ty notice of the diligence and industry of your two faithful and painful servants, your Solicitor and Serjeant, whereby the great mass is now digested into that order that may seem to best use in your service.[1]

6.

On the 12th October 1612, there was entered at Stationers' Hall "a book called the Essays of Sir Francis Bacon, Knight, the King's Solicitor General."[2] This was a new edition of the Essays of 1597, much enlarged, which Bacon had meant to dedicate to the Prince of Wales, and had written the dedicatory letter. The death of the

[1] This postscript is added in the margin in Northampton's hand.
[2] See Bacon's Essays edited by W. A. Wright, 1862: Preface, p. x.

Prince on the 6th of November prevented him: but the letter has been preserved. A fair copy of it, in the hand of the transcriber of the manuscript volume of Essays[1] which I have described in my edition of the 'Literary Works' (vol. i. p. 535), may be seen among the Additional MSS. in the British Museum, vol. 4259: and the water-mark of the paper shows that it originally belonged to that volume. Therefore, though it is without signature, and though there are no marks of Bacon's own hand upon this one leaf, it may be safely accepted not only as undoubtedly authentic, but as the last and best copy.

To the most high and excellent prince, Henry, Prince of Wales, Duke of Cornwall, and Earl of Chester.[2]

It may please your Highness,

Having divided my life into the contemplative and active part, I am desirous to give his Majesty and your Highness of the fruits of both, simple though they be.

To write just treatises requireth leisure in the writer, and leisure in the reader, and therefore are not so fit, neither in regard of your Highness' princely affairs, nor in regard of my continual services; which is the cause that hath made me choose to write certain brief notes, set down rather significantly than curiously, which I have called *Essays*. The word is late, but the thing is ancient. For Seneca's epistles to Lucilius, if one mark them well, are but *Essays*, that is, dispersed meditations, though conveyed in the form of epistles. These labours of mine I know cannot be worthy of your Highness, for what can be worthy of you? But my hope is, they may be as grains of salt, that will rather give you an appetite than offend you with satiety. And although they handle those things wherein both men's lives and their pens are most conversant, yet (what I have attained I know not) but I have endeavoured to make them not vulgar, but of a nature whereof a man shall find much in experience, and little in books; so as they are neither repetitions nor fancies. But howsoever, I shall most humbly desire your Highness to accept them in gracious part, and to conceive, that if I cannot rest, but must shew my dutiful and devoted affection to your Highness in these things which proceed from myself, I shall be much more ready to do it in performance of any your princely

[1] Harl. MSS. 5106. Addl. MSS. 4259, f. 155.

commandments. And so wishing your Highness all princely felicity I rest,

Your Highness's most humble servant.

The Prince himself being removed beyond the reach of essays and dedications and all human services, it remained for Bacon to do a small service to his memory (in which the surviving world had an interest) by setting down a remembrance of his character. As he wrote it in Latin, and made no other use of it so far as we know, it has been conjectured with great probability that he meant it for De Thou to use in his history. It is a careful study of the man—an attempt to describe or make out what he was worth and what he was, by diligent examination of such personal traits as had come within Bacon's observation or knowledge; and though short, contains all that we can be said to know about him. We have no account of him from any of his familiars, if he had any. The sayings or doings which have been recorded of him are few and of no great significance. And the vague and featureless eulogies in which his memory was celebrated at the time, and with which history seems to be still content, tell us nothing but that people of all classes hoped great things of him: which was an inevitable incident of his position. From a well conducted and personable prince of 19, who had never had an opportunity of engaging in any public action that could give either satisfaction or offence, every man could hope what he pleased, and each hoped what he wished. If his brother Charles had died before he was 20, I have little doubt that he would have died with as general regret, and that the fairest hopes of the country would as generally have been thought to have died with him. Bacon was never in any intimate relation with Prince Henry, but he had of course studied him diligently and curiously according to his opportunities, and in this paper we have a full, and to all appearance a candid and unreserved, report of the result of his study. It will be found among the Literary Works, vol. i. p. 319, with a translation and a preface.

7.

The same epidemic to which Prince Henry fell a victim (the rather because, with a young man's defiant contempt for illness, he neglected to take ordinary care of himself) made a fresh vacancy in the Mastership of the Wards, and gave occasion to the only letter which is known to have passed between Bacon and Rochester; a letter which is chiefly interesting for the absence of everything that, according to

the common view of his character, might have been expected in a letter to the man who had been the King's personal favourite for many years, and had greater influence with him now than ever before. Sir George Carey, who had been made Master of the Wards in June (somewhat to the disappointment of Bacon who had expected the place himself), died on the 13th of November, "of this new disease," says Chamberlain,[1]—and Bacon wrote the following letter

To the R. hon. his very good L. the Viscount Rochester of his Ms most hon. pr. Counsel.[2]

It may please your good L.

This Mastership of the Wards is like a mist. Sometimes it goeth upwards, and sometimes it falleth downwards. If it go up to great Lords, then it is as it was at the first; if it fall down to mean men, then it is as it was at the last. But neither of these ways concern me in particular. But if it should in a middle region go to lawyers, then I beseech your L. have some care of me. The Attorney and the Solicitor are as the King's champions for civil business, and they had need have some place of rest in their eye for their encouragement. The Mastership of the Rolls, which was the ordinary place kept for them, is gone from them. If this place should go to a lawyer, and not to them, their hopes must diminish. Thus I rest

Your Lp's affectionate
to do you humble service
Fr. Bacon.

What encouragement Bacon received on this occasion we do not know, but it is said on good authority[3] that he was so confident of the place that he had "put most of his men into new cloaks" in anticipation of it. Again however he was disappointed. It went again to a mean man. "Among many suitors for the place (says Chamberlain, 19 Nov.) . . . . I heard for certain yesterday that Sir Walter Cope has gotten the grant of it. I have it from one that heard himself speak it on Tuesday to the Earl of Salisbury. If it fall out so I shall marvel at the luck of the thing, and if the two last

[1] 19 Nov. 1612. Court and Times of James I., i. p. 208.
[2] S. P. Dom. James I., vol. lxxi. no. 34. Original, own hand. No date.
[3] Dr. Rawley's Commonplace book. "Sir Francis Bacon certainly expecting the place had put most of his men into new cloaks. Afterward when Sir Walter Cope carried the place, one said merrily that Sir Walter was Master of the Wards and Sir Francis Bacon of the Liveries." Lit. and Prof. Works, ii. p. 182.

Treasurers could look out of their graves to see these successors in that place, I think they would be out of countenance with themselves and say to the world *quantum mutatus!*"[1]

8.

The death of the Prince, occurring only three weeks after the arrival of the Count Palatine, necessarily postponed the marriage and prolonged his visit. But the delay was a serious inconvenience in the then state of the Exchequer, and the period of mourning was made as short as the customs of the time permitted. The marriage was celebrated on the 14th of February 1612–3, with the usual triumphs and rejoicings,—fire-works, sham fights upon the water, masques, running at the ring, and the rest of it; concerning which it would not have been necessary to say anything, were it not that Bacon took a principal part in the preparation of one of the masques. This was the joint masque presented by the gentlemen of Gray's Inn and the Inner Temple, written by Francis Beaumont, and printed shortly after with the following dedication.

To the worthy Sir Francis Bacon his Majesty's Solicitor-general, and the grave and learned Bench of the anciently allied houses of Gray's Inn and the Inner Temple, the Inner Temple and Gray's Inn.

Ye that spared no pain nor travail in the setting forth, ordering, and furnishing of this Masque, (being the first fruits of honour in this kind which these two societies have offered to his Majesty), will not think much now to look back upon the effects of your own care and work; for that, whereof the success was then doubtful, is now happily performed and graciously accepted; and that which you were then to think of in straits of time, you may now peruse at leisure: and you, Sir Francis Bacon, especially, as you did then by your countenance and loving affections advance it, so let your good word grace it and defend it, which is able to add value to the greatest and least matters.

It is easy to believe that if Bacon took an active part in the preparation of a thing of this kind in the success of which he felt an interest, he would have a good deal to say about all the arrangements. But as we have no means of knowing what he did say, and thereby learning something as to his taste in this department of art, it will be enough to give a general account of the performance as described by a contemporary witness.

On Tuesday (says Chamberlain, writing on the 18th of February 1612–3)

[1] S. P. Dom. James I., vol. lxxi. no. 38.

it came to Grays Inn and the Inner Temple's turn to come with their masque, whereof Sir Francis Bacon was the chief contriver; and because the former came on horseback and in open chariots, they made choice to come by water from Winchester Place, in Southwark; which suited well with their device, which was the marriage of the river of Thames to the Rhine; and their show by water was very gallant, by reason of infinite store of lights, very curiously set and placed, and many boats and barges, with devices of light and lamps, with three peals of ordnance, one at their taking water, another in the Temple garden, and the last at their landing: which passage by water cost them better than three hundred pounds. They were received at the Privy Stairs, and great expectation there was that they should every way excel their competitors that went before them, both in device, daintiness of apparel, and above all in dancing, wherein they are held excellent and esteemed for the properer men.

But by what ill planet it fell out I know not, they came home as they went, without doing anything; the reason whereof I cannot yet learn thoroughly, but only that the hall was so full that it was not possible to avoid it or make room for them; besides that most of the ladies were in the galleries to see them land, and could not get in. But the worst of all was that the King was so wearied and sleepy with sitting up almost two whole nights before, that he had no edge to it. Whereupon Sir Francis Bacon adventured to entreat of his Majesty that by this difference he would not, as it were, bury them quick; and I hear the King should answer that then they must bury him quick, for he could last no longer; but withal gave them very good words, and appointed them to come again on Saturday. But the grace of their masque is quite gone, when their apparel hath been already showed, and their devices vented, so that how it will fall out God knows, for they are much discouraged and out of countenance, and the world says it comes to pass after the old proverb, the properer man the worse luck.[1]

Their devices however went much beyond the mere exhibition of themselves and their apparel, and there was novelty enough behind the curtain to make a sufficient entertainment by itself, without the water business for overture. Chamberlain writes again on the 25th—

Our Gray's Inn men and the Inner Templars were nothing discouraged for all the first dodge, but on Saturday last performed their parts exceeding well and with great applause and approbation both from the King and all the company. The next night the King invited the masquers with their assistants, to the number of forty, to a solemn supper in the new marriage-room, where they were well treated and much graced with kissing his Majesty's hand and every one having a particular *accoglienza* from him.[2]

The Masque itself, with all particulars as to scenery, dresses, and

[1] Court and Times of James I., i. p. 227.

[2] Ibid., p. 229.

stage arrangements, may be seen in any edition of Beaumont and Fletcher. For what Bacon had to say about such things, see his Essay on Masques and Triumphs; which was very likely suggested by the consideration he had to bestow upon this.

9.

In these days, when anybody may publish any opinion about public matters without fear of worse than ridicule or dislike, it is not easy to imagine a world in which the publication of a false opinion was held to be an offence and forbidden under penalties. The futility of all attempts to suppress error by authority has been so well established by experience, that we have come to regard the attempt itself as immoral. In opinions, as in trade, we have learned that interference is mischievous; and the only error which we cannot tolerate is the error of putting restrictions on their freedom of development. Now in the beginning of the 17th century this was not the doctrine of any party, or probably of any person. The champions of liberty were quite as forward as the champions of authority in forbidding the utterance of opinions which they thought would do harm. If a Bishop published a book in which the proceedings of the House of Commons were discussed and censured (unjustly in their own opinion), all business was suspended till he and his book had been disavowed and rebuked, and a formal submission and apology extorted from him.[1] If a Professor of Civil Law published a law-dictionary "wherein was set forth the true meaning of all or the most part of such words and terms as are mentioned in the law writers or the statutes of this victorious and renowned kingdom, requiring any exposition or interpretation;" and if it were found that his definition of such words as *King*, *Parliament*, *Prerogative*, *Subsidy*, implied legal doctrines inconsistent with the privileges of the House of Commons as interpreted by themselves; there was no peace until the King had issued a Proclamation forbidding all men to buy sell or read the book, commanding every man who had a copy to give it up to the nearest person in authority, and promising to exercise thenceforward a stricter censorship of the press in matters concerning the laws and the government.[2] If an old gentleman, in speaking of the King and Queen of Bohemia, at a time when the nation was in excitement and their cause popular, had the indiscretion to use a contemptuous epithet, what was to be done? He had to be handed over by the House of Commons to the House of Lords, there formally charged by the Attorney General with notorious misdemeanours and high pre-

[1] Bishop of Bristol's case. See vol. iii. p. 209.
[2] Dr. Cowel's case. See above, p. 161.

sumption—namely, that he had "rejoiced at the losses happened to the King's daughter and her children," that he had "discouraged others who were of good affection unto them," that he had "spoken basely of them," and that he had "taken upon himself to judge of the rights of kingdoms"—and thereupon sentenced to be for ever held an infamous person, incapable of bearing arms like a gentleman or giving testimony in a Court of Justice; to be branded; to stand in the pillory; to be whipped at a cart's tail from the Fleet to Westminster Hall; to be fined 5000*l.* and to be imprisoned in Newgate for life.[1] When measures like these were not only allowed by a House of Commons famous for its championship of the subject's liberty to pass without remonstrance, but welcomed with gratitude and applause as the fit retribution for the utterance of opinions supposed to be derogatory to the privileges of Parliament, we cannot wonder that exception was occasionally taken by the Council to opinions supposed to be derogatory to the prerogatives of the Crown, and that the Crown lawyers were called upon to prove the authors guilty of contempt.

A case of the kind happened about this time, in which Bacon had to take a part, and which therefore I should not be justified in passing over. Oddly enough, the occasion out of which it grew was an attempt on the part of the Crown to reform an unpopular abuse. It had been found or suspected that the service of the Navy was suffering through the misconduct of some of the inferior officers and servants. Thereupon commissioners were appointed with authority to enquire and examine, to take order for the punishment of offenders, to reform the rules, and generally to set right whatever was wrong. The commissioners were the principal councillors of state; and the whole proceeding has every appearance upon the face of it of being just and laudable. That it was agreeable to the superior officers of the department, did not of course follow of necessity. Commissioners of enquiry *ab extra* are seldom agreeable to heads of departments, and never less so than when they are most wanted. The old Earl of Nottingham, who was still Lord High Admiral, and Sir Robert Mansel, who was Treasurer of the Navy, not only disliked, but determined if possible to resist and defeat it; and with that view employed a lawyer, who had distinguished himself in Parliament as a critic of the Prerogative, to find objections to the commission in point of law: which he accordingly did. As neither the commission itself nor the paper of exceptions to it has been preserved, we cannot form any judgment for ourselves upon the merits of the argument or the constitutionality of the doctrines expressed or implied in the

[1] Floyd's case in 1621. See Journals.

respective documents. But since the question must have turned upon the limits of the power of the Crown, and a lawyer would naturally push his argument at least as far as it would justly go, we may assume that the exceptions clipped the Prerogative rather close. They did in fact touch the quick. The paper came into the King's hands: we do not know when or how: but very likely from Mansel or Nottingham themselves, who if they got into an argument upon the question with the commissioners or with the King, would soon have to fall back upon their paper for support. At any rate the King had it; and then arose the question who was the author—for it was not signed. While this matter was pending (which was some time in the spring of 1613) James Whitelocke (the man who had begun the war in Parliament against Impositions) had occasion, in pleading for a client in the Court of Chancery, to dispute the validity of another commission,—the commission for the office of Earl Marshall. His argument gave great offence to the Earls of Northampton and Suffolk, who were the principal commissioners, and also to the Lord Chancellor, who professed that such matters were too high for *him* to judge of and must be referred to the King. To the King the question was accordingly referred, as one which threatened his prerogative, and the lawyer who had raised the objection was named as very likely to have been the author of the exceptions to the Commission of the Navy. The same afternoon (18 May 1613) Whitelocke was called before the Council and committed to the Fleet. For what cause he was committed the warrant did not state. But I suppose it was as the suspected (perhaps the avowed) author of that paper of exceptions, for procuring which Sir Robert Mansel had been committed already, and of which Whitelocke, being questioned at the Council-board, may very likely have acknowledged himself the writer.[1] At any rate, we hear no more of the motion in Chancery: but on the 12th of June they were both convented before the Council and formally charged with slandering the King's Commission for reforming the abuses of the Navy, and with censuring his prerogative. The object of the proceeding being only to mark the act by a formal sentence and record as a punishable offence, the substance of it was presently embodied in an Act of Council; which I have no doubt (judging by the style) was drawn up by Bacon, and may be accepted as the official report. It has been printed in the appendix to Whitelocke's *Liber Famelicus* (edited by Mr. Bruce for the Camden Society

[1] "Other passages that then happened in the Council chamber are set down in a larger discourse of it." Whitelocke appears to have written a full account of the whole business in a separate book: which I presume is lost. See *Liber Famelicus*, pp. 38, 39.

in 1858), but is here taken from a manuscript in the British Museum which appears to have belonged to Sir Simonds D'Ewes, and to be more correct (except in the title)[1] than the copy in the State Paper Office used by Mr. Bruce.

AT WHITEHALL, IN THE QUEEN'S CHAMBER OF PRESENCE, ON SATURDAY THE 12TH OF JUNE 1613.[2]

This day Sir Robert Mansell Kn^t^. and James Whitlocke Esqr. Counsellor at Law, formerly committed for their contempts, were convented before the Lords and others of his Ma^ty's^ Privy Counceil, assisted with the Master of the Rolls, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer, at the Whitehall, and there were by his Ma^ty's^ learned Counsel severally charged; the substance of which charge and the sentence and order thereupon given were as followeth.

First the said James Whitlocke was charged, that whereas his M. being credibly informed of divers great frauds, deceits, and other abuses which had been committed concerning the service of his Ma^ty's^ navy, through the negligence or corruption of inferior officers and other employed in that service, thought fit in his princely wisdom and providence to grant, and accordingly had granted, forth a commission under the great seal of England, unto the Lo. Chancellor of England, the Lo. Privy Seal, the Lo. Admiral, the Lo. Chamberlain, and divers other great Counsellors, and other persons of eminent quality, to enquire examine and find out the same deceits and abuses, and upon the discovery of them as well to give order for the due punishment of the offenders for the time past, as likewise to devise and set down fit ordinances and rules for the well governing and ordering of the navy and all the incidents thereof for the time to come, with reasonable pains to be inflicted upon the offenders, provided that all should be agreeable to law; the said James Whitlocke

[1] It is entitled "An Act of Council, recorded in the Council-table books, upon the proceedings of the Lords of the Council against Mr. James Whitlocke, counsellor at law, and Sir Robert Mansell, for that they had unjustly traduced and slandered the King's Commission for reforming the abuses of the Navy, and also censuring his M's power and prerogative. At the Whitehall the of . A° 1609."

This title, in which the month date is left blank and the year date is wrong, was no doubt the composition of the transcriber or collector, who was making out the description from the contents. I have therefore substituted the title of the copy in the State Paper office.

[2] Addl. MSS. Brit. Mus. 4149, f. 173.

emboldened by that which ought rather to have refrained him (which was his science and profession in the Law) had committed two several great contempts concerning the same commission; the one in that he had unjustly traduced and slandered the said Commission to be of another nature than indeed it was; the other (which was yet greater) in that by occasion thereof he presumed in a very strange and unfit manner to make an excursion into a general censure and defining [of] his Ma$^{ty's}$ power and prerogative: concerning both which, it was particularly opened by his Ma$^{ty's}$ said Counsel that Sir Robert Mansell, Treasurer of the Navy, seeking to cross the said Commission, about the end of Hilary Term last past, repaired to the said Whitlocke, and earnestly moved him in the name of the Lord High Admiral of England (as by the said Whitlocke was avouched) to set down what exceptions he could possibly devise, and as fully as he could, to the form and substance of that Commission; whereupon the said Whitlocke with an extraordinary haste and apprehension, set down in writing divers untrue and scandalous matters, under the title of exceptions to the said Commission.

For first in the said paper he termed the Commission in very contemptuous manner, irregular, without precedent, strange, of a new mould, and such as he hoped should never have place in this Commonwealth; and termed also the Commissioners therein Inquisitors, to make it seem the more odious; and in all the course of his writing never used so much as a modest phrase of tenderness or loathness to deal in so high a cause, or of referring or submitting himself to better judgment, or of making the cause difficult or doubtful; but took upon him to pronounce the Commission to be void and against law, and to give an absolute censure in derogation of it; whereas it might have become him either to have declined to deal in a cause of that greatness, or at least to have handled it in reverent and respective manner, being an act of State proceeding from his Ma^{ty}.

Secondly, he did tax the Commission that by the tenor thereof the punishment of offences was left to the discretion of the Commissioners; which is but a calumniation: for that it appears by the words of the same Commission that the scope thereof was but *ad inquirendum*, and that the order to be given was to be intended of a direction to refer the offence to the course of justice as appertaineth, and not to an immediate or judicial hearing and determination of them.

Thirdly, the said Whitlocke did devise, in scandal of the said Commission, to compare and match it with the Commission mentioned in the year books in the 42d year of K. Edwd. the 3d and there by the Court most justly condemned, by which Commission certain persons were commanded forthwith to arrest a subject's body and goods, and to cast him into Gloster Gaol, without sentence or judgment before given, or cause expressed; whereas the present Commission was so far different in nature from the other, as it mought in some sort be said to be contrary; the one being to proceed to execution without a judgment precedent, and the other being but a preparation to a proceeding subsequent.

And for the second contempt, it was opened by his Matys said Counsel that the said Whitlocke had affirmed and maintained by the said writing that the King cannot, neither by commission nor in his own person, meddle with the body, goods, or lands of his subjects, but only by indictment, arraignment, and trial, or by legal proceedings in his ordinary Courts of Justice, laying for his ground the statute of *Magna Charta, Nullus liber homo capiatur*, etc. which position in that general and indefinite manner was set forth by his Matys said Counsel to be not only grossly erroneous and contrary to the rules of law, but dangerous and tending to the dissolving of Government.

First, for that *Lex Terræ* mentioned in the said Statute, is not to be understood only of the proceedings in the ordinary Courts of Justice, but that his Matys Prerogative and his absolute power incident to his sovereignty is also *lex terræ*, and is invested and exercised by the law of the land, and is part thereof; and it was thereupon observed and urged that the opinion broached by the said Whitlocke did manifestly (by consequence) overthrow the King's martial power and the authority of the Council Table, and the force of his Matys proclamations, and other actions and directions of State and Policy applied to the necessity of times [and] occasions which fall not many times within the remedies of ordinary justice, nor cannot be tied to the formalities of a legal proceeding, *propter tarda legum auxilia;* neither could he the said Whitlocke be so blind (except he would wilfully mistake) but that he must needs discern that this present Commission was mixed with matter of State and martial defence, tending to the conservation of the Navy which is the walls of this island, and a

principal portion of the surety, greatness, and renown of king and kingdom, and therefore not like unto a Commission of oyer and determiner, or other such ordinary Commissions.

Secondly it was observed by his Ma^ty^'s Counsel that in this case there was another point of difference; which was that the ships and vessels with all their furniture and the materials thereof are the King's own, and the persons whom the Commission did concern were his officers and servants or in his pay and wages; so that his Ma^ty^. in this case hath a power of examination and correction, not only regal, but (as it may be termed) dominical, as a master and owner.

Thirdly, it was enforced by his Ma^ty^'s said Counsel, that if the Statute of *Magna Charta* in the point of *nullus liber homo capiatur*, etc. should receive the construction that the said Whitlocke giveth unto it, it doth manifestly impeach all imprisonment either for causes of State or common justice before trial, whereas the general practice of the realm is and hath ever been that not only the Council of the estate, but Justice of Assizes and Justice of Peace do commit offenders capital upon pregnant presumptions, before either trial or indictment; and common reason teacheth that if the persons of malefactors were not secured by safe custody before indictment, there would be nothing but escapes and general impunity; and therefore that assertion of the said Whitlockes every way pernicious; whereupon the K's learned Counsel concluded upon both parts that as well for the slander of his Mat^ys^ Commission as for the clipping and impeaching of his Ma^ty^'s prerogative and power, the said Whitlocke's contempts were very great and deserved sharp punishment; neither were anyways to be defended by the privilege of a Counsellor at Law, which was not infinite but to be contained within due bounds, and was to be managed without presumption and with due respect to the higher powers: for which purpose his Mat^ys^ said Counsel produced divers precedents of severe proceeding against Lawyers for their contempts in giving crafty or turbulent counsel and opinion to their clients, which nevertheless they said were of an inferior nature to the present offence.

After the charge of the said Whitlocke, there followed the charge likewise of Sir Robert Mausell, which was to this effect; that his fault was not any whit inferior unto the other, for that he had sought undutifully to oppose himself against his Mat^ys^

proceedings and to call his prerogative in question; w^h fault was aggravated—

First in that Mr Whitlocke had not undertaken this work but at his importunity and upon confidence of the countenance and assistance of the Lord Admiral which he pretended.

Secondly, for that he was the means to divulge those dangerous positions tending so much to the diminution of his Mat^ys royal power.

And thirdly, in that he, being a principal officer in the Navy, (whose duty did oblige him to advance the same by his best endeavours) had nevertheless used means to hinder so necessary a service as was intended by the same Commission.

Upon which several charges the said Sir Robert Mansell and James Whitlocke, perceiving the nature and weight of their offences, did in all humility acknowledge their errors, and flying from his Ma^ty^s justice to his grace and clemency, humbly besought their Lordships to be intercessors unto his M. on their behalf, that his Highness would be graciously pleased to accept of this their submission and penitency, and to remit any further penalty for the said offences than the imprisonment they had already endured, and to restore them again to his favour and gracious opinion, which they would endeavour to deserve by all possible service.

Upon all which matter, and answers fully and deliberately heard and considered, their Lordships, together with the Judges their assistants, did severally (beginning with the highest) declare their judgments, how much they did condemn the doings of the said Sir Robert Mansell and M^r. Whitlocke, and how grievous and dangerous they conceived their offences to be, opening gravely and effectually the quality of them. Yet nevertheless they favourably inclined unto the suit of the said Sr Robert Mansell and Mr Whitlocke, to commend their cause unto his his Mat^y^s grace and clemency, and promised their best assistance and furtherance for obtaining the same, and in the mean time they required them to make severally the like submission in writing subscribed with their hands, as they had done by word, and remanded them unto their several prisons until his Mat^y^s pleasure were further known.

The next day, being Sunday the 13th of this month, and the aforesaid submissions being written and subscribed as was enjoined, and presented unto his Mat^y^s hands on their behalf,

it pleased his Mat^y. out of his singular clemency and goodness, upon the report which had been made by the Lords unto him of the former day's proceedings, to accept of the acknowledgement of their faults and errors and to receive them again into his favour; wherefore order was given to send for them, and thus much being signified unto them both, by the Lords at the Council Table, (after certain grave admonitions for their behaviour hereafter towards his Ma^ty and the causes of his prerogative and estate) direction was given for their present enlargement.

We have here a summary report of the *substance* of this proceeding, in which Bacon (if it was he who drew it up) would of course collect the scattered points of the argument and reduce them to the compactest shape and the best order that he could devise, without binding himself to the order in which they were actually presented. Of the part which he himself took in it we learn something from a paper of notes in Sir Julius Cæsar's handwriting,[1] who was present and appears to have set them down as the case was going on. From these it appears that the charge against Whitelocke was opened by the Attorney General and concluded by Bacon, while that against Mansell was left to the Recorder. But the notes are not full enough to explain the speeches to one who had not heard them, and are chiefly valuable as showing that a rough draft in Bacon's handwriting of a "charge of Whitelocke," which is preserved among the papers at Lambeth, represents substantially the speech which he delivered on this occasion. It is probably a note of what he *intended* to say, and I take it that the latter part has been lost. But it is no doubt a genuine composition of his own, and it seems to have been looked over and corrected, as if to prepare it for the transcriber.

The Charge of Whitelocke.[2]

My Lords,

The offence wherewith Mr. Whitelocke is charged (for as to Sir Robert Mansell, I take it to my part only to be sorry for his error) is a contempt of an high nature, and resting upon two parts: The one, a presumptuous and licentious censure and defying of his Majesty's prerogative in general; The other a slander and traducement of one act or emanation hereof, containing a com-

[1] Lansd. MSS. 160, fo. 83.
[2] Gib. Pap., viii. fo. 249.

mission of survey and reformation of abuses in the office of the navy.

This offence is fit to be opened and set before your Lordships (as it hath been well begun) both in the true state and in the true weight of it. For as I desire that the nature of the offence may appear in his true colours, so on the other side I desire that the shadow of it may not darken or involve anything that is lawful, or agreeable with the just and reasonable liberty of the subject.

First, we must and do agree that the asking and taking and giving of counsel in law is an essential part of justice, and to deny that is to shut the gate of justice, which in the Hebrews' commonwealth was therefore held in the gate, to show all passage to justice must be open, and certainly counsel in law is one of the passages. But yet for all that, this liberty is not infinite and without limits.

If a jesuited papist should come and ask counsel (I put a case not altogether feigned) whether all the acts of parliament made in the time of Queen Elizabeth and King James are void or no, because there are no lawful bishops sitting in the upper house and a parliament must consist of lords spiritual and temporal and commons, and a lawyer will set it under his hand that they be all void, I will touch him for high treason upon this his counsel.

So, if a puritan preacher will ask counsel whether he may style the king Defender of the Faith, because he receives not the discipline and presbytery, and the lawyer will tell him it is no part of the king's style, it will go hard with such a lawyer.

Or if a tribunitious popular spirit will go and ask a lawyer whether the oath and band of allegiance be to the kingdom and crown only and not to the king (as was Hugh Spenser's case), and he deliver his opinion as Hugh Spenser did, he will be in Hugh Spenser's danger.

So as the privilege of giving counsel protects not all opinions: and as some opinions given are traitorous, so are there other of a much inferior nature which are contemptuous. And among these I reckon Mr. Whitelocke's; for as for his loyalty and true heart to the King, God forbid I should doubt it.

Therefore let no man mistake so far, as to conceive that any lawful and due liberty of the subject for asking counsel in law is

called in question, when points of disloyalty or of contempt are restrained.

Nay we see it is the grace and favour of the King and his courts, that if the case be tender and a wise lawyer in modesty and discretion refuseth to be of counsel, (for you have lawyers sometimes too nice as well as too bold,) they are then ruled and assigned to be of counsel. For certainly counsel is the blind man's guide; and sorry I am with all my heart, that in this case the blind did lead the blind.

For the offence for which Mr. Whitelocke is charged, I hold it great, and to have, as I said at first, two parts; the one a censure, (and in as much as in him is,) a circling, nay a clipping, of the King's prerogative in general: the other a slander and depravation of the King's power and honour in this commission.

And for the first of these, I consider it again in three degrees. First, that he presumed to censure the King's prerogative at all. Secondly, that he runneth into the generality of it more than was pertinent to the present question. And lastly, that he hath erroneously and falsely and dangerously given opinion in derogation of it.

First, I make a great difference between the King's grants and ordinary commissions of justice, and the King's high commissions of regiment, or mixed with causes of state.

For the former, there is no doubt but they may be freely questioned and disputed, and any defect in matter or form stood upon, though the King be many times the adverse party.

But for the latter sort, they are rather to be dealt with (if at all) by a modest and humble intimation or remonstrance to his Majesty and his council, than by bravery of dispute or peremptory opposition.

Of this kind is that properly to be understood which is said in Bracton, *De cartis et factis regiis non debent aut possunt justitiarii aut privatæ personæ disputare, sed tutius est ut expectetur sententia regis.*

And the King's courts themselves have been exceeding tender and sparing in it; so that there is in all our law not three cases of it. And in that very case of 42 Ed. 3. Ass. pl. s. which Mr. Whitelocke vouched, where as it was a commission to arrest a man and to carry him to prison and to seize his goods without

any form of justice or examination preceding, and that the judges saw it was obtained by surreption, yet the judges said they would keep it by them, and shew it to the King's council.

But Mr. Whitelocke did not advise his client to acquaint the King's council with it, but peremptorily giveth opinion that it is void. Nay, not so much as a clause or passage of modesty, as that he submits his opinion to censure, that it is too great a matter for him to deal with, or this is my opinion, which is nothing, etc. But bluntly, *illotis manibus*, he takes it into his hands, and pronounceth of it, as a man would scarcely do of a warrant of a justice of peace, and speaks like a dictator, that *this is law*, and *this is against law*, etc.

* * * * *

This is all that remains: but I do not think it is the whole. The last words come down to the end of the sheet, and a line which had been drawn across the page is crossed out. I suspect that the draught was continued on another sheet, which has been lost. Of the three degrees of the offence which he promises to treat of, he has not yet done with the first. Sir Julius Cæsar's notes give some indication of what followed, but do little to supply it. They conclude thus.

"To measure the power and dimensions of the Crown, wch Whitelocke hath done, a great presumption.

—The King's regal authority hath 4 streams.

Ecclesiastical.

Martial.

of Equity.

of Law.

To speak of these things in general is inconsiderate rashness and incapacity.

Thus far Mr Solicitor."

The loss of the separate book in which Whitelocke had set down a full account of this business, is to be regretted: for that part of the story which he trusted to the *Liber famelicus* leaves us without any means of judging whether or not he had transgressed the just limits of free speech as they were understood in those times. Even in these days there are words which are actionable—not at all the less because the speaker believes them to be true. And it is possible to conceive a state of opinion in which damage to the authority of government was held to be as grave an offence as damage

to the property of a tradesman. Certainly Whitelocke's submission was complete enough: involving a full and unreserved admission that he had done wrong and would not do so again. And though a submission which is the condition of release from custody may be to a certain extent treated as a formality, and does not necessarily imply a change of opinion, yet it must be remembered that Whitelocke submitted before sentence had been passed. In the presence of Coke and Tanfield, who were summoned to the hearing as assessors, I should have thought him an unlikely man to abandon his defence if he could find good footing for it in the common law. The lost book contained among other things his own account of his submission,—"with note which was his own and which was Sir Francis Bacon's addition:" a distinction which might perhaps have given us some light as to the real state of his private opinion: though I do not myself see by what omission the effect of the declaration could be materially altered.

CHAPTER X.

A.D. 1613. JULY–DECEMBER. ÆTAT. 53.

1.

A TWELVEMONTH had now passed since the Council was set to work in earnest to find means of raising the income of the Crown, without help from Parliament, to an equality with its expenditure: a thing which the author of the dialogue on the Great Contract (supposed to be Sir Julius Cæsar) had represented as practicable.[1] It is now time to enquire what success they had had; for upon the issue of the experiment the policy of the coming years would mainly depend. And the answer shall be given by Sir Julius Cæsar himself. A draft in his own hand of a report upon the proceedings of the Commissioners, gives so full and clear and yet so concise an account of the whole case that I shall give it entire.

MEMORIAL OF THE LORDS COMMISSIONERS THEIR EMPLOYMENTS FOR BETTERING THE KING'S REVENUE. 1 JUNE 1613.[2]

In June last, presently after the death of the Lord Treasurer Salisbury, the Chancellor of the Exchequer acquainted his sacred Majesty with the estate of his revenue and receipt: which was that his yearly ordinary expenses exceeded his yearly ordinary revenues by 160,000*l.* or thereabouts; and that his present debt was 500,000*l.* or near thereabouts.

That between that Midsummer and Michaelmas following there was necessarily to be provided for the maintenance of the ordinary expenses—60,000*l.*

No way else presently left for to do it but the sale of the mills, parsonages, and other lands left out of the entail or annexation.

That the same was to be done forthwith.

Which done, yet the debt remained 500,000*l.* and would increase by

[1] "And now I trust you are satisfied that the King is not in such extreme need of the Commons' help to relieve his present wants, but that he can by his own means, and without taking any desperate course, relieve himself." Parl. Deb. 1610, App., p. 170.

[2] Lansd. MSS. 165 fo. 223. This is the docket of the paper, in Sir J. C.'s hand.

the quarterly inequality of the ordinary, besides the extraordinary: which would lead to a plain ruin if it were not prevented.

4 ways shewed to prevent it.

1. Spending less.
2. Improvement of the present revenue.
3. New means of gain by projects, etc.
4. Parliament.

The 1st in his own power.

The 2nd by converting some remote forests, parks, chases, wastes, and commons to the best profit.

The 3rd dangerous before Parliament.

The 4th very uncertain.

All which was showed to his M. by the said Chancellor in writing, and concluded with the same words, which is yet forthcoming to be seen.

Presently upon this his M. called unto him the Lords of his Privy Counsel, and signified the premises unto them in the presence of the late Prince, expressing his pleasure unto the Lords that howsoever the consideration thereof did specially appertain to the Lords Commissioners for the Treasury, yet the redress of these wants concerned them also, and he expected from them all their best furtherance therein, as often as the Commissioners should require the same.

And then in the Lords' presence his M. spake to the Prince to take an hearing amongst the Lords of the Chancellor's declaration of all the particular heads of the Revenue and expenses, and try how he could justify that state of expenses and debts which he had presented unto his M.

Whereupon the late Prince appointed a day for it, and then came and sate with the Lords at Whitehall, and heard the Chancellor at large touching the said expenses, revenue, and debts, according to his M. pleasure and commandment.

After which the King was pleased to command the Lord Chancellor and the Lords Commissioners to enter into a due examination of the said estate, and to advise wherein his M. might abridge his expenses, or improve his revenue, or increase the same by new projects, and to acquaint him with their proceedings at his return from his progress.

In July the said Lords met perpetually together with the greatest assiduity and diligence that ever was observed in men of their places: who (after the sale of some small part of the aforesaid lands for the provision of 20,000*l.*, and despatch both of commissions and instructions to all parts of the land for the Lady Elizabeth's Aid, and sending letters and directions for the advancing of the loans) did wholly intend the business of bettering the King's revenue.

Of which labours the effect was, that the King with time in some natures might abate his expenses by yearly 59,000*l.* and in some natures improve his revenue by yearly 85,700*l.* and by new projects to add to the present revenue an yearly increase of [dash in MS.].

And because therein they would omit nothing that either the wisdom of counsellors to so great a King, or the care of honest servants to so gracious

a master and sovereign, might either think of or provide for, they before their departure from their daily meetings in counsel did substitute divers gentlemen of special good rank and sort, videl. the King's learned Counsel and other officers of special trust, to assist Mr. Chancellor of the Exchequer in considering of divers projects which required a further examination, and to make report to them of their proceedings and opinions thereof at their return to London.

The sub-commissioners met in August last and spent much time together with great diligence, and in September returned their certificate to the Lords aforesaid;[1] who presently both in the end of that month and in October following conferred their notes together and couched in writing (by the extreme pains especially of the Lord Privy Seal, who spared no labour in writing and methodical disposing thereof) the whole substance of that which they had concluded touching all three heads either of abating of charges, improving of the present revenue, or adding of new unto it; and rejecting of many idle and dangerous projects, which might prove either against the law, or inconvenient to the State, or justly distasteful to the people, or any way dishonourable to his M. The particularities whereof are methodically set down by the said Lord Privy Seal and at large made known to his M. by the said Lord by word of mouth in the presence and with the consent of the rest of the Lords Commissioners.

And because his M. may plainly perceive that the labours of the Lords Commissioners have not been fruitless in themselves, though by accidents of extraordinary occasions and expenses since that time they have smally holpen the extremities of his M. wants, it may please his M. to look into these abatements, improvements, and additions ensuing, viz:

	£
Works at 30,000*l.* this last year—19,424*l.*, saved	10,576
Irish Commissioners 700*l.* all abated	700
Irish Customs this last year 1500*l.*, now improved	4,500
Recusants 7000*l.* before, now improved . . .	1,000
Mint 1000*l.* before, now improved	2,000
Assarts—improved	3,000
Defective titles—improved	4,000
Alienations—improved	2,000
Coferer—abated	6,000
Messengers—abated	2,000
	35,776

THE SCHEDULE.

Abatements yearly.		*Improvements yearly.*	
1. By my La. Eliz. departure	10,000*l.*	1. In the return of the late Prince's revenue, if no part thereof be otherwise disposed . . .	50,000*l.*
2. In pensions, if the K. grant no more nor renew old	4,000*l.*	2. In the Irish Customs .	5,700*l.*

[1] This I presume was the paper printed in the last chapter, p. 314.

3. In the household . . 6,000*l.*
4. In the Treasury of the chamber, if the packets be less frequent . . 2,000*l.*
5. In the jewel house, if the K. will . . . . 5,000*l.*
6. In the works, if buildings stay . . . . 18,000*l.*
7. Irish Commissioners . 700*l.*
8. In the Wardrobe, if ready money may be furnished hereafter . 5,000*l.*
9. In the Navy, after the transportation of my L. Eliz. past . . . 8,000*l.*
10. Judges in Westminster Hall 2 abated . . . 100*l.*
11. In prisons, if fewer prisoners be committed 200*l.*

3. In the Court of Wards and Liveries . . . 20,000*l.*
4. In Customs upon the Strangers 3[d] . . . 3,000*l.*
5. In Recusants' forfeitures 1,000*l.*
6. In the Mint profits . 2,000*l.*

[7 and 8 erased in MS.]

9. In the Alienation office 2,000*l.*
10. In Issues Royal . . 1,000*l.*

The silk farm . . . . 4,000*l.*
The French Wines . . 6,000*l.*
Low Countries debt . . 40,000*l.*
Currants after 7 years . 5,000*l.*
Great customs. . . . 4,000*l.*

Additions by Projects likely to prove well.

1. Assarts and purprestures 3,000*l.*
2. Defective titles . . . 4,000*l.*
3. Incroachments.
4. Wastes and Commons.
5. Coppices and underwoods to be leased.
6. Remainders of Intails not spent to be sold.
7. Surrounded grounds.
8. Old houses and castles.
9. Impost of foreign starch and prohibition of making any here.

[10 erased in MS.]

11. Busses and fishing.
12. Baronets.
13. Intails spent.
14. Remote forests, parks, and chases.
15. Forbidding of transportation of cloths drest or undied.

Allum.
Waterworks.

Projects not likely to prove well.

1. Feefarming of the King's lands.
2. Bargaining for the King's tenures and wards.
3. Altering the book of rates to the highest value.
4. The K. to be sole merchant of tobacco, salt, pepper, etc.
5. Selling of offices, great and small.
6. Fines to dispense with Sheriffs.
7. Reservation upon the ecclesiastical seal of some profit to the King.
8. Alehouses and Inns to be licensed only by the King under his great seal of England.
9. Patents of legitimation, naturalization and ennoblizing.
10. Copper small monies of one penny and under—viz: half pennies and farthings.
11. Clerk of the Markets exactions.
12. A reservation upon Usury.
13. The enrollment and forfeitures

of apprentices an. Eliz. 5 cap. 5.

14. Draining and inning of land from the sea, with the inhabitants' consent.
15. None to bear coat of arms, or give badges but such as shall be licensed by Commissioners under the great seal.
16. The statutes of employments of strangers' goods to be put in execution and all other statutes of like advantage for the King and kingdom.

1. Of all which it appeareth that we have abated and improved respectively to the King's profit, since my late Lord Treasurer's death, to the sum of 35,776*l.*
2. That there hath been brought in, or would have been, into the receipt, if it had not been otherwise disposed of by your Majesty, together with that which is to come in before the end of December next in extraordinary to bear some part of the ordinary wants, 309,681*l.*

Videl. in these natures ensuing:	£
Baronets	66,666
Money out of France, parcel of their debt	30,000
Money out of the United Provinces, parcel of their debt	60,000
Aid for the Lady Elizabeth	22,000
Loans	50,000
Farmers of the Great Customs	20,000
Sale of lands, woods, and mills	42,000
Defective Titles	4,000
Assart Lands	3,000
Green wax and forfeitures	3,655
For refusal of the oath of allegiance	8,360
	309,681
Whereof received already	217,681
To be received before Xmas next	92,000

I thought it better to give these details, not so much that the statement might be complete (for it is but a rough draft with several erasures, additions, and interlineations), but because Posterity is apt to expect of former Kings at once the most unsparing liberality in spending money and the most magnanimous indifference about getting it, and needs to be reminded from time to time that Kings cannot give more than they have, and that what they have must come

one way or another from the people. But that which concerns us at present is the sum total. An increase in the ordinary revenue of 35,776*l.* and a collection of 309,681*l.* extraordinary, was not enough to supply an annual deficiency of 160,000*l.* and pay a debt of 500,000*l.* It was clear therefore that the last of the four ways to prevent ruin, though "very uncertain" a year ago, and more uncertain now, must be tried: and before the end of June the question of calling a Parliament was again formally referred to the Council for consideration.

Bacon—considering the extreme importance which he attached to this measure, the confidence with which he had volunteered his opinion in favour of it immediately after Salisbury's death, when he asked leave to propound to the King "some preparative remembrances touching the future Parliament," as "taking himself to have a little skill in that region," and the much more prominent position as an assistant in council-matters which he occupied now than then, —was not likely to let an occasion of this kind go by without some effort to lend a helping hand. I conceive therefore that certain undated papers of his which quite answer the description of "preparative remembrances touching a future Parliament," and which were certainly written when the question was brought up or about to be brought up again for consultation, and before any resolution had been taken, belong in point of date to the summer of 1613. Mr. Gardiner puts them half a year later: but that is only because he assumes them to be subsequent to another letter of later date, which it is clear to me they preceded. The date however is in this case of little importance, in so far as it is doubtful; the matter (which is of great importance) not being affected by it. Whether written in January 1614 or in June 1613, they contain the results of Bacon's meditations upon the question of calling a Parliament, and the manner in which it was to be dealt with in order to bring the session to a successful issue. Seldom, I suppose, has there been a measure of State which required more boldness and yet more delicacy in the handling; seldom a Council of State less favourably constituted for handling it well. For it was as easy to go wrong through too great an anxiety to further it as through too much obstinacy in opposing it. Too much faith and too little might be equally fatal. On one side there was Northampton, who had so little hope from a Parliament, that he seems to have been not only against its being tried, but desirous that it should miscarry. On the other side were a party of Parliament men, who out of confidence in their own experience and influence with the Lower House were rash enough to undertake the management of it, and to engage that if the King would follow their advice, his business should be carried to his satisfaction. At the

head of these was Sir Henry Neville, an able and public spirited man, with large and just views as to the state of the times, with sympathies well balanced between the people and the Crown,—earnest for the redress of grievances, yet hoping to be made secretary of state,—and possessing, it would seem, much influence over Rochester, which was the best opening for influence over the King. Several memorials and advices of his are extant which refer to this period;[1] and it cannot be doubted, I think, that his *ends* were wise and patriotic. But the case was new and difficult, and the event proved that he did not thoroughly understand his ground. He knew the harbour which was to be steered for, and in which it would be good for all parties, and satisfactory to all parties, to arrive; but he had not thoroughly fathomed the depths and shallows of popular judgment in such an assembly as the House of Commons had now become. The sands at the bottom were rapidly and secretly shifting, and the currents at the top were shifting with them. It was not either ancient experience or recent experience that could tell a man where the safe course now lay; but only the combination of experiences both old and new with that prophetic sagacity which is derived from a profound insight into the nature of man, and reserved for original genius of the highest order. It was no great blame to him therefore and his associates, if they ran the vessel aground; nor any great blame to James that he took them for his pilots. But I think he had the choice of a better.

That Bacon, had he been prime minister, could have carried the business through successfully, it is of course impossible to say. But the papers of which I am now speaking,—and which though they have been accessible to everybody ever since the catalogue of the Cotton MSS. was open to inspection, have never been printed,—enable me to say thus much;—that though aiming at the very same ends (for I do not know that he would have objected to any one of the measures which Sir Henry Neville proposed to carry) he would have proceeded in a different manner; and that too from an apprehension of danger in the very quarter where the event proved that it really lay. We have seen how strongly he disapproved of the contract-policy which was pursued with the last Parliament, and how

[1] See Cott. MSS. Tit. F. iv. fo. 344, "Matters to be propounded and sued for unto his M. in behalf of the Commons." Ib. fo. 349, "A memorial for my L. of Rochester." Ib. fo. 350, "Reasons to prove that the course propounded doth no way prejudice his M. right or claim of Imposing, nor abridge his profit." All, I believe, in Sir H. Neville's handwriting. See also "An advice touching the holding of a Parliament," printed by Mr. Gardiner, vol. ii. p. 389; and "A collection of such things as have been by several men desired to be obtained of his M. for the good of his people" (Harl. MSS., 3787 fo. 183): which I take to be the memorial which was sent with that paper, and which Mr. Gardiner has not printed.

strongly he advised that no time should be lost in calling another. We are now to see what course he would have had the King take with it, in order to recover the ground which he had lost.

The two papers which I place first contain the results of his private meditations upon the question, and are to be regarded not as the advice he gave, but as the conclusions upon which the advice he was about to give was grounded. The advice itself we shall see afterwards.

[Reasons for calling a Parliament.[1]]

Having settled my opinion after some meditation, I conclude with myself it is fit for the King to call a Parliament, or at least not fit for any man to dissuade it.

My reasons are—

1. Parliament hath been the ordinary remedy to supply the K's wants: and it is a great confession of weakness in a body if it cannot brook the ordinary remedy.
2. In point of fame and observation, there is no great difference whether it be said abroad, The K. is in necessity and the Parliament hath denied to relieve him: or thus, The K. is in necessity and dare not call a Parliament to put the affections of his people to a trial.
3. The K. in my opinion standeth in better terms with his people than he did the last Parliament. Certainly Salsbury and Dunbarre have drawn much envy in a chariot into the other world.
4. I know few actions of estate that are harsh, that have been in agitation or rumour of late; and the old grievances, having been long broached, wax dead and flat. Sure I am the K. did himself infinite right in the L. Zanchre's case, when his M. showed himself of that resolution

   Tros Tyriusque mihi nullo discrimine agetur.

5. The opposite party heretofore is now dissolved and broken. Yelverton is won: Sans is fallen off; Crew and Hide stand to be serjeants; Nevell hath his hopes; Martin hath money in his purse; Broek is dead. Besides they find the vanity of that popular course, the K. having kept a princely temper towards them, not to persecute or disgrace them, nor yet to use or advance them.

[1] Cotton MSS. Tit. F. iv. fo. 334. All in Bacon's own hand.

6. The dryness of the last Parliament doth not much discourage me, partly for that which hath been said; but chiefly for two reasons: The one because at that time Contract and Gift were *antitheta*, like Grace and Works, the one crossed the other; The second because I subscribe to the opinion of many wise men, That the opposition which then appeared was partly by infusion.
7. If any man dissuade a Parliament, he is exposed to the imputation of creating or nourishing diffidence between the King and his people; he draweth upon himself the charge of the consequences of the K's wants; and he is subject to interpretation that he doth it for private doubts and ends.
8. Lastly I conceive the sequel of good or evil not so much to depend upon Parliament or not Parliament, as upon the course which the K. shall hold with his Parliament, and therefore I think good to leave the first question and to apply the care to the second.

INCIDENTS OF A PARLIAMENT.[1]

1. The Impositions and how that matter may be buried and silenced.
2. The Grievances, and how the collection of them in general may be restrained, and the dealing in them at all put back till the King's business be set in due forwardness.
3. What project may be probably given out to be in hand, whereby the King may repair his estate out of his own means, that the proceeding with his Parliament may be upon terms of majesty and not of necessity.
4. What other opinions are to be sown and dispersed, and what actions of estate are to be set on foot and voiced, as preparatives, whereby men may come to Parliament better affected, and be when they are met more forcibly induced and persuaded to supply the K. with treasure.
5. What gracious and plausible laws or other matter are really to be propounded and handled in Parliament, for the comfort and contentment of the people.
6. What is fit to be done for the winning or bridling of the Law-

[1] Cott. MSS. Tit. F. iv. fo. 335. All in Bacon's own hand, except the numerals, which appear to have been inserted afterwards by another. No date or docket.

yers (which are the *literæ vocales* of the house) that they may furder the King's causes, or at least fear to oppose them.

7. What course may be taken for the drawing of that body of the house which consisteth of citizens and burgesses of corporations to be well affected to the K's business.
8. What course may be taken for the drawing of that great body of the house which consisteth of Justices of the peace and gentlemen of the country to be well affected to the K's business.
9. What course may be taken for the drawing of that body of the house which consisteth of courtiers and the K's servants to be as they have ever in former times (except the last Parliament) used to be, that is, sure and zealous for the K. and not (as they were then) fearful or popular.
10. What course may be taken with that combined body, being extracted of all the former sorts, which made the popular party last Parliament, for the severing of them, intimidating of them, or holding them in hopes, or the like, whereby they may be dissolved, or weakened, or won.
11. What course may be held to ingage and assure the Judges *in omnem eventum*, for any points of law or right which may be foreseen as likely to come in question in Parliament.
12. What persons in particular, in respect of their gravity, discretion, temper, and ability to persuade, are fit to be brought in to be of the house, *bonis artibus*, without labouring or packing.

    What persons in particular, as violent and turbulent, are fit to be kept back from being of the house, *bonis artibus*, without labouring or packing.
13. What use may be made of the Boroughs of the Cinq Ports, and of the Duchy, and other boroughs at the devotion of diverse the K's counsellors, for the placing persons well affected and discreet.
14. What use may be made of the unlawful custom and abuse, for[1] the sending up and returning of blanques, which if it be restrained perchance it may stumble many a one's entrance that think themselves assured of places.

[15.] What course may be taken that though the K. do use

[1] So MS.

such providence as is before remembered and leave not things to chance, yet it may be so handled as it may have no shew nor scandal nor nature of the packing or briguing of a Parliament, but contrariwise that it tendeth to have a Parliament truly free and not packed against him.

16. To this purpose what course may be taken to make men perceive that it is not safe [to] combine and make parties in Parliament, but that men be left to their consciences and free votes.
17. To let men perceive that a guard and eye is had by his M. that there be no infusions as were last Parliament from great persons, but that all proceeding be truly free.
18. To consider whether it be fit to strengthen the lower house with any Counsellors of estate, and whether it will do good.
[19.] To consider whether it will be fit to steer the K's business as it was last time by conferences with the upper house, which will be hard to do now the Treasurer is gone, who had a kind of party in both houses.
20. To consider of the time fit to hold a Parliament, and to take such a course as it be not held over long, but rather that men take notice of a resolution in his M. not to hold it above such a time.

To consider of a fit speaker for the lower house.

Such were the questions which had to be considered. The answers which he was prepared to give to them at this time were not set down; or if they were, the record has not survived for us. But so much as he was then ready to offer in the shape of practical advice he proceeded to explain in a confidential letter addressed to the King himself.

TO THE KING.[1]

It may please your excellent Majesty,

Before your Majesty resolve with your Counsel concerning a Parliament, mine incessant care and infinite desire that your Majesty's affairs may go well have made me in the case of Elihu, who though he was the inferior amongst Job's counsellors, yet

[1] Cott. MSS. Tit. F. iv., fo. 332. Very fairly written in the Roman hand of one of Bacon's men. Signed by Bacon himself. No date, docket, or address.

saith of himself that he was like a vessel of new wine, that could not but burst forth in uttering his opinion. And this which I shall write I humbly pray your Majesty may be to yourself in private. Not that I shall ever say that in your Majesty's ear which I will be either ashamed or afraid to speak openly; but because perhaps it might be said to me after the manner of the censure of Themistocles, 'Sir, your words require a city;' so to me: 'You forerun: your words require a greater place.' Yet because the opportunity of your Majesty's so urgent occasion flieth away, I take myself sufficiently warranted by the place I hold, joined with your Majesty's particular trust and favour to write these lines to your Majesty in private.

The matter of Parliament is a great problem of estate, and deserveth apprehensions and doubts. But yet I pray your Majesty remember that saying, *Qui timide rogat docet negare.* For I am still of the opinion (which I touched in general in my former letter to your Majesty),[1] that above all things your Majesty should not descend below yourself; and that those tragical arguments and (as the schoolmen call them) ultimities of persuasions which were used last Parliament should for ever be abolished, and that your Majesty should proceed with your Parliament in a more familiar, but yet a more princely manner.

All therefore which I shall say shall be reduced to two heads.

First, that the good or evil effect like to ensue of a Parliament resteth much upon the course which your Majesty shall be pleased to hold with your Parliament; and that a Parliament simply in itself is not to be doubted.

Secondly, what is the course which I would advise were held, as safest from inconvenience, and most effectual and likely to prevail.

In both which parts your Majesty will give me leave to write not curiously, but briefly; for I desire that what I write in this argument may be *nihil minus quam verba.*

For the first my reasons are:—

1. I do not find since the last Parliament any new action of estate amongst your Majesty's proceedings that hath been harsh or distasteful: and therefore seeing the old grievances (having

[1] 18 Sept. 1612. See p. 313.

been long broached) cannot but wax dead and flat, and that there hath been no new matter either to rub up and revive the old or to give other cause of discontent, I think the case much amended to your Majesty's advantage. It is true there have been privy seals, but it is as true they were never so gently either rated or pressed. And besides, privy seals be ever thought rather an attractive than a repercussive to subsidies.

2. The justice upon my Lord Sanquir hath done your Majesty a great deal of right, showing that your Majesty is fixed in that resolution,

Tros Tyriusque mihi nullo discrimine agetur:

which certainly hath rectified the spleen-side, howsoever it is with the liver.

3. Let it not offend your Majesty if I say that the Earls of Salisbury and Dunbarre[1] have taken a great deal of envy from you and carried it into the other world, and left unto your Majesty a just diversion of many discontents.

4. That opposition which was the last Parliament to your Majesty's business, as much as was not *ex puris naturalibus* but out of party, I conceive to be now much weaker than it was, and that party almost dissolved. Yelverton is won; Sandes is fallen off; Crew and Hyde stand to be serjeants; Brocke is dead; Nevell hath hopes; Barkeley I think will be respective; Martin hath money in his purse; Dudley Digges and Holys are yours. Besides, they cannot but find more and more the vanity of that popular course; specially your Majesty having carried yourself in that princely temper towards them, as not to persecute or disgrace them, nor yet to use or advance them.

5. It was no marvel the last Parliament, men being possessed with a bargain, if it bred in them an indisposition to give; both because the breaking left a kind of discontent, and besides Bargain and Gift are *antitheta*, as the Apostle speaketh of Grace and Works; and howsoever they distinguished Supply and Support in words, yet they were commixed in men's hearts, and the entertaining of the thoughts of the one did cross and was a disturbance and impediment to the other.

[1] "Ex hujus morte magna lætitia ad totam Scotiam pervenit; nullus gemitus, nullus fletus, nisi filiæ et generi." Johnstone, Rer. Brit. Hist. p. 497.

6. Lastly, I cannot excuse him that is gone of an artificial animating of the Negative; which infusion or influence now ceasing I have better hope.

For the course I wish to be held, I most humbly beseech your Majesty to pardon the liberty and simplicity which I shall use. I shall distribute that which I am to say into four propositions.

The first is—

1. That your Majesty do for this Parliament put off the person of a merchant and contractor, and rest upon the person of a King. Certainly when I heard the overtures last Parliament carried in such a strange figure and idea, as if your Majesty should no more (for matter of profit) have needed your subjects' help, nor your subjects in that kind should no more have needed your graces and benignity,—methought, besides the difficulty (in next degree to an impossibility), it was *animalis sapientia*, and almost contrary to the very frame of a monarchy, and those original obligations which it is God's will should intercede between King and people.

Besides, as things now stand, your Majesty hath received infinite prejudice by the consequence of the new Instructions for the Court of Wards: for now it is almost made public that the profits of the Wards being husbanded to the best improvement[1] (which is utterly untrue) yet amounteth to a small matter; and so the substance of your bargain extremely disvalued.

2. My second proposition is that your Majesty make this Parliament but as a *coup d'essay*, and accordingly that your Majesty proportion your demands and expectation. For as things were managed last Parliament, we are in that case, *optima disciplina mala dediscere*. Until your Majesty have tuned your instrument you will have no harmony. I, for my part, think it a thing inestimable to your Majesty's safety and service, that you once part with your Parliament with love and reverence. The proportions I will not now descend unto; but if the payments may be quickened, there is much gotten.

And if it be said, his Majesty's occasions will not endure these proceedings *gradatim;* yes, surely. Nay I am of opinion that what is to be done for his Majesty's good, as well by the improvement of his own as by the aid of his people, it must be

[1] See p. 361, where the improvement is set down as 20,000*l*.

done *per gradus* and not *per saltum;* for it is the soaking rain and not the tempest that relieveth the ground.

3. My third proposition is that this Parliament may be a little reduced to the more ancient form (for I account it but a form), which was to voice the Parliament to be for some other business of estate, and not merely for money; but that to come in upon the bye, whatsoever the truth be. And let it not be said that this is but dancing in a net, considering the King's wants have been made so notorious; for I mean it not in point of dissimulation but in point of majesty and honour; that the people may have somewhat else to talk of and not wholly of the King's estate; and that parliament-men may not wholly be possessed with those thoughts; and that if the King should have occasion to break up his Parliament suddenly, there may be more civil colour to do it. What shall be the causes of estate given forth *ad populum;* whether the opening or increase of trade (wherein I meet with the objection of Impositions, but yet I conceive it may be accommodate), or whether the plantation of Ireland, or the reducement and recompiling of laws,—throwing in some bye-matters (as Sutton's estate,[1] or the like)—it may be left to further consideration. But I am settled in this, that somewhat be published besides the money matter; and that in this form there is much advantage.

Lastly, as I wish all princely and kind courses held with his Majesty's Parliament, so nevertheless it is good to take away as much as is possible all occasions to make subjects proud, or to think your Majesty's wants are remediless but only by Parliament. And therefore I could wish it were given out that there are means found in his Majesty's estate to help himself (which I partly think is true), but that, because it is not the work of a day, his Majesty must be beholding to his subjects; but as to facilitate and speed the recovery of himself rather than of an absolute necessity. Also that there be no brigues nor canvasses, whereof I hear too much; for certainly howsoever men may seek to value their service in that kind, it will but increase animosities and oppositions; and besides will make whatsoever shall be done to be in evil conceit amongst your people in general afterwards.

[1] That is, I suppose, in case the will were evicted. Judgment was finally given in favour of the will on 23rd June, 1613.

Thus have I set down to your Majesty my simple opinion, wherein I make myself believe I see a fair way through the present business, and a *dimidium totius* to the main. But I submit all to your Majesty's high wisdom, most humbly desiring pardon, and praying the highest to direct you for the best.

Your Majesty's most humble
and true servant,
Fr. Bacon.

These papers, though they had been seen by Mr. Hallam and have since been largely commented upon by Mr. Gardiner, have not in my opinion received the attention they deserve, whether as illustrations of Bacon's political career, or as evidence concerning the history of the time. The confidential character of the letter to the King gives it a peculiar value, as containing Bacon's own private and original opinion. What a man writes or speaks concerning matters in which a resolution has already been taken by others or in concert with them, does not necessarily indicate his own personal opinion. He may be only making the best of a course which has been chosen against his judgment and advice; and there are many passages in Bacon's official and Parliamentary career which are to be read with that qualification. But where a man goes out of his way to offer his opinion in private upon matters which are still under consultation, and that too with a view to influence the decision, there we may be sure we have his own genuine views. There is nothing to restrain him from recommending exactly what he thinks best. It is worth while therefore to examine this piece of advice a little more closely, that we may be the better prepared to see how far it was attended to, and what were the consequences of neglecting it.

The course recommended by Sir Henry Neville was no doubt much simpler, and if we might assume that the success of it was as certain as he himself took it to be, might justly be preferred. It seems indeed to have been framed for an age of innocence, when people had nothing to do but to be good. Let the King suspend for the present all projects for raising money independently of Parliament; make up his mind to grant to his subjects, as of grace, the things they desire; forbear any speech that may irritate; seem confident of their affection; speak graciously to the people during progress; take notice of the principal gentlemen and let them kiss his hand; "give order to the Archbishop to prohibit all books and invective sermons against the Parliament, so as notice may be taken of

his Majesty's commandment before the meeting;" peruse the grievances last exhibited, see that all promises have been performed, and "if he would please to be gracious" in any of the others, "do it of himself before he be pressed:" Having summoned his Parliament to meet at Michaelmas, let him begin by announcing to them such favours and graces as he is ready to bestow, and inviting a deputation to confer with him about their further demands;[1] let him "be gracious to his people in the points proposed, or any other of the like nature which may be thought of by the House when they meet, (for beforehand no man can precisely say these things would be demanded and no other):"—Let him do all this, and Sir Henry Neville is ready to answer for it, that "in a month or five weeks this point of supplying the King and of his retribution will be easily determined, if it be proposed betimes and followed close afterwards,"—"that his Majesty shall receive as much contentment of this next Parliament as he received distaste of the former,—and that all things will end in that sweet accord that will be both honourable and comfortable for his Majesty and happy for the whole realm." After which—"when his Majesty hath made use of his people's affections to put him out of want, any fit projects that shall be offered may be the boldlier entertained to fill his coffers."[2]

What could be simpler or more delightful? But was he *quite* sure that nothing would be desired by the House of Commons but what the King, before he knew what it was, might safely engage to concede? Because if such a thing should happen, the whole castle would tumble.

Upon this extremely important point, the only satisfaction which Sir H. Neville had to offer was his own conviction that there was no danger. He had lived and conversed intimately with the leaders of the opposition in the last Parliament, "knew their inwardest thoughts on that business," and "durst undertake for most of them, that the King's Majesty proceeding in a gracious course towards his people should find those gentlemen exceeding willing to do him service, and to give him such contentment as might sweeten all the former distastes, and leave both his Majesty and the world fully satisfied of their good intentions and of the general affection of his subjects." He could not say exactly what concessions would satisfy them; but

[1] "Requiring the House to nominate a competent number of 30 or 40, or fewer, which may repair unto him with their demands, and be authorized both to ask and answer such questions as the debate about them shall beget, without concluding or binding the House in any point, but only to clear things and report all back to the House"—(substituting, in short, conferences with the King for conferences with the Lords).

[2] See 'An advice [by Sir Henry Neville] touching the holding of a Parliament.' Printed by Gardiner, ii. p. 389.

he had made "a collection of such things as had been by several men desired to be obtained of his Majesty for the good of his people,"[1] and from this it would be seen that they did not aim at anything unjust or unreasonable.

Perhaps not. But though the things asked for up to this time may have been reasonable, and the leaders may (like Neville himself) have been willing to rest there, who could answer for the followers? Moderate men may continue to lead as long as they continue to advance. But as soon as the party which they have created has learned its strength and the secret of it, their leadership is held thenceforward upon condition of going as far and as fast as their followers want to go. If they stop short, they are run over, and the lead is taken by whoever goes foremost. In this case Neville knew what concessions he was himself prepared to insist on as the conditions of a vote of supply, and knew them (we will suppose) to be just, safe, and expedient. But how could he know that Hoskyns or Wentworth or Chute would not insist upon extorting by the same means some concession which he would think unjust, unsafe, or inexpedient? How could he know that they would not carry a majority of the House with them? If they did, what could he and his friends do to prevent it? And if they could not prevent it, in what case did they leave the King? Of any provision either for encountering an unreasonable opposition or securing in case of repulse an honourable retreat, there is no hint in any part of his paper.

Bacon's advice, though proceeding upon the same grounds and aiming at the same ends (for such a *conclusion* as Neville promised would have been all he wished for), differs in several points which are material. That a gracious meeting and parting between the King and the Parliament was a thing absolutely necessary; that no time was to be lost; and that he should proceed towards the Lower House with confidence, as having no doubt of their good affection:—so far they agree. But at this point they part.

If the King followed Neville's advice, he would begin at once with an offer of his bills of grace, and an invitation to confer with the Lower House upon their desires and grievances; he would then have the question of supply and retribution proposed at once, and followed closely, so that the whole business might be concluded within a month or five weeks: he would make it in fact ostensibly and merely a money Parliament. If he followed Bacon's, this was the very thing which he would specially avoid. On the contrary, he would endeavour to bring the Parliament back to the ancient form.

[1] Cott. MSS., Tit. F. iv. fo. 11. The memorial which was enclosed with the letter of advice.

He would let it be understood that it was called for the consideration of some great question of State, such as the opening of trade, the colonization of Ireland, or the recompilement of the laws; and say nothing about supply or retribution; but leave such matters to come up by the way. He would have measures in readiness for the contentment and comfort of the people; but instead of inviting the Lower House to discuss with him their desires and complaints (a sure way of teaching them to extend the list), he would endeavour so to occupy their attention that the collecting and discussing of grievances should be kept back till his own business were well advanced.

Again: If he followed Neville's advice, he would bring the popular demand for concessions and his own demand for supply into such close proximity, that they would inevitably take the form of a bargain, and be weighed one against the other,—value to be bestowed in concessions against value to be received in subsidies. If he followed Bacon's, he would endeavour to avoid all appearance of bargaining in such matters, not merely because to dispute about bargains with his people would entail a loss of majesty in their eyes,—a price at which, even if it had been the readiest way to disembarrass the Exchequer, the disembarrassment would have been dearly purchased,—but because the nature of the reciprocal concessions did not admit of that kind of valuation. To conclude such a bargain as would have made the Crown and the people independent of each other for the future was a thing not to be wished, even if it had been practicable; and to teach them to expect in return for each vote of supply some particular boon from the Crown of corresponding value, was to lead them away from the consideration of their true function, which was to furnish the government with the means of governing well; so to maintain the Crown that the Crown might maintain the people. For certainly the duties which the King owed to his subjects were not of a nature to be appraised and reduced to a value in money. What they were worth was not what they might be sold for, but what it might cost to get them done. Therefore however it might be desirable to bestow largely upon the people particular boons of pecuniary or other relief, the better to quicken their affection and strengthen their confidence, yet to offer these by way of equivalents for subsidies was utterly wrong and tended to defeat its own purpose.

Again: If the King followed Neville's advice, though he would assume that his people were willing to help him, he would make no secret of the fact that he could not do without their help, and that it rested with them whether they would give it or not. For the price he was to be prepared to give for it was "the being gracious to his

people in the points proposed, *or any other of the like nature which might be thought of*"—which was nothing less than the concession of everything which had been or might be demanded. If he followed Bacon's, he would endeavour to avoid all appearance not merely of misgiving as to the affection of the Commons, but of solicitude as to the event. He would let it be understood that he had the means of disembarrassing himself without their help, though it would take more time.

Once more: If he followed Neville's advice he would stake all on the issue, and if he lost would be left in a condition as bad or worse than the time before: for the parting could hardly be without another quarrel. If he followed Bacon's, he would treat the thing as an experiment, and be prepared to meet a disappointment without discomposure or shew of irritation. The growing dependence of the Crown upon the Commons was indeed a fact which it behoved the Crown to accept and understand and remember. The tendency in that direction was inevitable. It is probably no exaggeration to say that the Crown was already dependent upon the Commons; that is, they had it in their power to withhold from the King the means of carrying on the government, and thereby to bring him to their own terms: not indeed absolutely, or at once: but if they chose to persevere in refusing supplies until the conditions they demanded were complied with, to those conditions he must have come at last. But though this was the fact, it was a fact not yet declared; and most desirable it was that for the present it should be disguised from popular observation. It was fit therefore that the King should act as if that condition were not necessary to him which the Commons might constitutionally refuse. He must in fact be prepared to do without it, and let it be seen that he was so prepared. Bacon saw that to produce this impression was now the King's first object; a *sine quâ non*: that if he succeeded in that it would be enough, though he succeeded in nothing else; and therefore that his true policy was to carry matters so that the hope of contribution might not seem to be a principal motive for calling the Parliament, nor any disappointment in that respect a motive for proroguing it; but to treat it as a thing comparatively immaterial, which was not essential to his purposes and did not affect his proceedings: and left him free "to part with his Parliament with love and reverence"—for once: "a thing inestimable to his safety and service."

Finally, if the King followed Neville's advice, he would trust absolutely and implicitly to the good faith and persuasive powers of the opposition leaders, who undertook that if he did what they bid him do, he should have what he wanted. If he followed Bacon's (who

had seen many more Parliaments than they), he would endeavour to prevent all canvassing to form a party for him in the House, as that which would be sure to "encrease animosities and oppositions;" but would at the same time neglect no fair means of conciliating the support or averting the hostility of the several parties of which the House was composed.

We shall see in the next volume what course was followed, and with what results. For the present, the question was again postponed. On the 4th of July Lord Northampton reported to Sir Thomas Lake (who was with the Court) that the Council were busy with the care of the King's estate: "only of the Parliament, or reasons either to move or remove the same, they had hitherto forborne to speak; because it was consequent to precedent questions or disputes which the Lords of the Commission had now in hammering."[1]

2.

About the time that these things were under discussion, a vacancy in the Bench gave Bacon a chance of promotion in the natural line of his progress. On the 7th of August 1613 Sir Thomas Fleming, Chief Justice of the King's Bench, died. It was a fair opportunity for removing Sir Henry Hobart from the place of Attorney, for which Bacon, as we have seen, thought him very ill suited; but who, having recovered from his illness, was likely to hold it until he could change it for a better. Bacon's first thought seems to have been to get him made Chief Justice in Fleming's place, upon which his own succession to the Attorneyship could hardly have failed to follow, his claim being so undeniable and his help so much wanted: and as it is not to be supposed that he would lose any time in such a matter, we may safely conclude that the following letter to the King was written on or about the 7th of August 1613.

To the King.[2]

It may please your most excellent Majesty,

Having understood of the death of the Lord Chief Justice, I do ground in all humbleness an assured hope, that your Majesty will not think of any other but your poor servants, your attorney and your solicitor, (one of them), for that place. Else we shall be like Noah's dove, not knowing where to rest our foot. For the places of rest after the extreme painful places

[1] S. P. Dom. James I., vol. lxxiv. no. 23.
[2] Gib. Pap., vol. viii. fo. 276. Fair copy, with corrections, all in Bacon's hand.

wherein we serve have used to be, either the Lord Chancellor's place, or the mastership of the Rolls, or the places of the two chief justices: whereof, for the first, I would be almost loth to live to see this worthy counsellor fail. The mastership of the Rolls is blocked with a reversion. My lord Coke is like to outlive us both. So as if this turn fail, I for my part know not whither to look. I have served your Majesty above a prenticehood, full seven years and more, as your solicitor, which is, I think, one of the painfulest places in your kingdom, specially as my employments have been; and God hath brought mine own years to fifty-two, which I think is older than ever any solicitor continued unpreferred. My suit is principally that you would remove Mr. Attorney to the place; if he refuse, then I hope your Majesty will seek no further than myself, that I may at last, out of your Majesty's grace and favour, step forwards to a place either of more comfort or more ease. Besides how necessary it is for your Majesty to strengthen your service amongst the Judges by a Chief Justice which is sure to your prerogative, your Majesty knoweth. Therefore I cease further to trouble your Majesty, humbly craving pardon, and relying wholly upon your goodness and remembrance, and resting in all true humbleness,

Your Majesty's most devoted
and faithful subject and servant,
Fr. Bacon.

Upon further reflexion it occurred to him that still better use might be made of the occasion. The Chief Justice of the King's Bench, though not the best paid among the Judges, was the highest in dignity; and as the causes with which that Court had to deal consisted of offences against the Crown, I suppose it supplied fewer occasions for enquiring into the limits of the Prerogative than the Court of Common Pleas, which (dealing with civil suits) was continually called upon to adjudicate in disputes between the subject and the King. To a man of Coke's temper, the position of champion and captain of the Common Law in its battles with Prerogative was a tempting one. His behaviour as Chief Justice of the Common Pleas, though accompanied with no alteration in himself, had entirely altered his character in the estimation of the people; transforming him from the most offensive of Attorney Generals into the most admired and venerated of Judges, and investing him with a popularity which has been transmitted without diminution to our own times,

and is not likely to be questioned. For posterity, having inherited the fruits of his life and being well satisfied with what it has got, will not trouble itself to examine the bill, which was paid and settled long ago. To us, looking back when all is over, the cost is nothing. To the contemporary statesmen, however, who were then looking forth into the dark future and wondering what the shock of the contending forces was to end in, his triumphs were of more doubtful value. To some of them, even if they could have foreseen exactly what was going to happen, the prospect would not have been inviting. A civil war, a public execution of a King by his subjects for treason against himself, a usurpation, a restoration, and a counter-revolution,—all within one generation,—would have seemed to one looking forward very ugly items in the successful solution of a national difficulty; and those who saw in Coke's judicial victories the beginning of such an end might be pardoned if they desired to find some less dangerous employment for his virtues. Now if he could be raised from the Common Pleas (the ordinary duties of which could be well enough discharged by Sir Henry Hobart) to the King's Bench, he would meet with fewer opportunities of collision with the Crown, and a quieter time might be hoped for. And Bacon who, whether he saw to the end or not, was obliged by his professional duty to see enough of the other side of all these disputed questions to satisfy him that Coke's activity was not all for good, recommended this arrangement to the King. Such at least is the motive for it which seems to me most probable. I know it has been commonly assumed that Bacon's reason for recommending, as well as Coke's for deprecating, the change was merely or chiefly that it would cause a loss of income. But if a reduction of income had been the only difference, I doubt whether Bacon would have thought it a politic move. In so wealthy a man as Coke the difference of income could have made no difference in reputation; while the rise in dignity would make him a greater man than he was before. And though to Coke himself, as a man who took pleasure in growing rich, the change might be on that account unwelcome, both the reluctance with which he consented to his elevation and the emotion with which he underwent it seem (if they have not been very much exaggerated in the description) to have been stronger and deeper than so trivial a cause would naturally explain. That he was not so well qualified for a Judge in criminal as in civil causes, would have been a worthier ground of objection, if one could suppose that he was aware of the fact. But for an ambitious man with a firm belief in himself and his own virtue to leave a post in which he acted as a counterpoise to the monarchy, and was continually brought into personal collision with the King

himself, on terms of advantage and in the interest of what he believed to be the constitution—this might well be a matter of deep and serious regret. While on the other hand, to a man who thought, as Bacon did, that he was upsetting the constitution on the other side, his removal from such a post would naturally seem to be a piece of good service to the country as well as to the King; nor was there any objection to his being made greater, if at the same time he were made more harmless.

The ostensible grounds for the arrangement which he thought fit to present to the King are set forth in the following paper.

Reasons for the remove of Coke.

> Reasons why it should be exceeding much for his Majesty's service to remove the Lord Coke from the place he now holdeth to be Chief Justice of England, and the Attorney to succeed him, and the Solicitor the Attorney.[1]

First, it will strengthen the King's causes greatly amongst the judges. For both my Lord Coke will think himself near a privy counsellor's place, and thereupon turn obsequious, and the attorney general, a new man and a grave person in a judge's place, will come in well to the other and hold him hard to it, not without emulation between them who shall please the King best.

Secondly, the attorney sorteth not so well with his present place, being a man timid and scrupulous both in parliament and in other business, and one that in a word was made fit for the late Lord Treasurer's bent, which was to do little with much formality and protestation, whereas the now solicitor going more roundly to work, and being of a quicker and more earnest temper, and more effectual in that he dealeth in, is like to recover that strength to the King's prerogative which it hath had in times past, and which is due unto it. And for that purpose there must be brought in to be solicitor some man of courage and speech and a grounded lawyer; which done, his Majesty will speedily find a marvellous change in his business, for it is not to purpose for the judges to stand well disposed, except the King's counsel, which is the active and moving part, put the

[1] Gib. Pap., vol. viii. fo. 257. Draft in Bacon's hand. Docketed "Reas. for ye remoove of Co." No date.

judges well to it; for in a weapon what is a back without an edge?

Thirdly, the King shall continue and add reputation to the attorney's and solicitor's place by this orderly advancement of them, which two places are the champion's places for his rights and prerogative, and being stripped of their expectations and successions to great place will wax vile, and then his Majesty's prerogative goeth down the wind. Besides, the remove of my Lord Coke to a place of less profit (though it be with his will) yet will be thought abroad a kind of discipline to him for opposing himself in the King's causes, the example whereof will contain others in more awe.

Lastly, whereas now it is voiced abroad touching the supply of places, as if it were a matter of labour and canvass and money, and other persons are chiefly spoken to be the men, and the great suitors; this will appear to be the King's own act, and is a course so natural and regular as it is without all suspicion of those by-courses, to the King's infinite honour; for men say now, the King can make good second judges, as he hath done lately; but that is no mastery, because men sue to be kept from these places. But now is the trial in those great places how his Majesty can hold good, where there such is great suit and means.

In this case, Bacon's advice was adopted in all points but one. Coke was made Chief Justice of England: Hobart Chief Justice of the Common Pleas: himself Attorney General, and Yelverton Solicitor. Only instead of hanging out the *hope* of a Privy Councillor's place as an inducement to Coke to be more conformable, the King made him a Privy Councillor at once, which had a very different effect.

3.

While the Government in England was thus struggling with the difficulties incident to the Parliamentary system at home, a great experiment was in progress for the introduction of Parliamentary government into Ireland: an experiment very remarkable, when the condition of things and the state of opinion in both countries is considered, and very creditable in my opinion both to the advisers and to those who adopted the advice.

If the Reformation had taken the same hold of the native population in Ireland as in England and Scotland, the case would have been

manageable. But while of two religions mutually intolerant and aggressive the government professed one and the people the other, a Parliament which fairly represented the people was not an instrument by means of which government could have been carried on. Protestants still hoped that with the help of the English and Scotch colonists the nation would ultimately be brought round to the true faith. But until that were accomplished, a truly representative Parliament in Ireland would be in effect a Roman Catholic Parliament; between which and the Puritan Parliament of England what could be expected but discord? But though the Catholic party could not be allowed to have a Parliamentary *majority* (seeing that the Government could not be other than Protestant, and constitutional government with a majority against it is an impossibility), there was no reason why they should not have a Parliamentary *representation*. An opposition may have much influence in a legislative assembly, although it be in a minority: and it was better for Ireland to be governed by a Parliament in which the Catholics had a considerable though not an overruling voice, than to be governed without any Parliament at all; which was the alternative. For that Ireland should be governed by England was a necessity imposed by the nature of things: it being her misfortune to be so placed in the world as to form a military position, which England was obliged for her own security to take and hold. And if she was to have the benefit of a Parliament, it must be one in which England could command a majority.

In some respects the state of things was favourable for the experiment. The existing Parliamentary constitution of Ireland was, upon any view of the case, inadequate to the existing condition of the population. At the accession of Elizabeth there were some 15 counties, each sending two knights to the Lower House, and containing among them some thirty boroughs, each of which sent its two burgesses. In the course of her reign the rest of the island was converted into "shire-ground," as it was called, and the represented counties were increased by 17, but in these there was no borough representation at all. When James took the business in hand, he found that among the representatives of the counties, old and new together, the government could reckon upon a small majority;[1] but that the old boroughs (being mostly in the South, where English colonization had not prospered) turned the balance against them. The natural and apparently the fair remedy for this was to erect within the new counties of the North, where lay the present strength and future hopes of Protestantism, their fair proportion of new

[1] Gardiner, ii. p. 306.

boroughs. And this remedy he now resolved to try. His *right* to erect boroughs where he pleased does not appear to have been disputed, and I do not think he can be justly charged with making an intemperate use of it. The selection of the places was left to Sir Arthur Chichester, who best understood the state of the country; and though care was of course taken to make such a selection as would secure the return of a Protestant majority, yet the fact that upon the first fair trial of strength between the two parties the opposition mustered 97 in a house of 224, proves that the Catholic party was by no means reduced to insignificance. That they would be satisfied with a constitution which placed them in a minority at all, was not indeed to be expected: they would have preferred no doubt to govern themselves for themselves, without reference to England. But that could not be. In the mean time they had a stroke in the management of their affairs which was not to be despised. Compare the numbers, and it will be seen that the native element had a voice in the national counsels very much more powerful than we allow to it now. At this day, if all the Irish members were to vote as one man against a bill in the House of Commons, it might nevertheless be carried against them by a majority of five to one. Under the constitution as thus reformed by James, the Irish party (even if we assume that not a single Irish member, properly so called, voted with the government,) could not be defeated by a majority of more than seven to three.

In the spring of 1613 all things were at length ready for the experiment: the bills prepared, transmitted to England, revised by the Council, and returned under the Great Seal; licence granted to summon and hold Parliament; members elected, and the meeting fixed for the 18th of May. "I wish" (said Chichester, writing to Sir John Davies in the previous August) "we might carry it, and prevail in the matters to be handled in this Parliament, as is behoveful for his Majesty's service and good of the kingdom; but I doubt there will be great opposition to all that is good, and we must encounter them the best we may."[1] A quiet start was hardly to be hoped for, and it was perhaps lucky that the opposition made a false one, which put them unmistakably in the wrong. The first business was to elect a Speaker. Sir John Davies, having been recommended by the Deputy, was duly proposed in the House, and (the motion being opposed) was elected on a division by 127 to 97. But the Noes, who remained in the House while the Ayes went out, took the opportunity of their absence to elect their own man and

[1] Chichester to Davies, 14 Aug. 1612. Printed in the Life of Davies prefixed to his 'Historical Tracts,' p. xix.

seat him in the chair; from which the majority, when they returned, had some difficulty in dislodging him. Being however a majority, they succeeded by the use of natural forces in removing the intruder and planting Sir John Davies bodily in his place, and so settled that question; leaving to the dissentients no choice but submission o secession. They chose secession. Acting in concert with the members of their party in the Upper House, they refused to take their places unless the members for the new boroughs should be sequestered from the House until their elections had been examined. And as that could not be, they requested that the matter might be referred to the King and that they might send a deputation to plead their cause before him.

The request, upon the recommendation of Chichester, was granted, and in July 1613 the case was heard before the King and Council with extraordinary patience and indulgence. The complainants were not limited to matters which bore upon the justification of the act in question, such as the character of the new boroughs, the mode of the elections, the constitution of the House, or the order of proceeding in it: but were allowed to put in budget after budget of miscellaneous grievances, extending over the whole field of Irish government. Nor were any of these set aside as irrelevant. Every kind of allegation was received and listened to which would have been fit to bring before a committee appointed to enquire into the general grievances of the Commonwealth; and so far was the indulgence carried that the discussions ended in a resolution to send four Commissioners over to Ireland with instructions to investigate them all upon the spot.

It is to this stage of the proceedings that Bacon's next letter refers. I do not find that he had anything to do either with the project of calling this Irish Parliament or with the measures taken by way of preparation. I do not even know whether he thought it a safe experiment in itself, or whether he did not think that the creation of so many new boroughs, with the manifest if not the avowed object of making a government majority, would spoil the value of the majority which it made. I do not remember in any of his own papers of advice about Ireland any allusion to an Irish Parliament as a convenient instrument for the cure of existing evils. I have no doubt however that, when the King had gone so far, he would have advised him to go through with it.

The matters to be enquired into by the Commissioners were set out at length in their commission and instructions, which were drawn up by the Attorney General while Bacon was at Gorhambury, and included abuses of all kinds,—such as extortions and oppressions by

soldiers, by carriage masters, by sheriffs, by informers, by officers and inferior clerks in Courts of Justice, etc. Bacon did not see them until they were read to the Lords of the Council on the 13th of August, when, finding that he had more objections to make than he thought it becoming to insist on before the Council, he set them down on a paper and sent it to the King. Of this paper I have not succeeded in finding any traces; but the letter which enclosed it has been preserved, and may now speak for itself. After what I have said it will be intelligible enough, and all that I know of Bacon's interference in the matter comes from it.

To the King's most excellent Matᵗʸ.[1]

It may please your most exc. Mᵗʸ,

I was at my house in the country what time the Commissions and Instructions for Ireland were drawn by Mr. Attorney, but I was present this day the forenoon when they were read before my Lords; and excepted to some points, whereof use was made, and some alterations followed. But I could not in decency except to so much as I thought there mought be cause, lest it mought be thought an humour of contradiction or an effect of emulation; which I thank God I am not much troubled with. For so your M's business be well done, whosoever be the instrument, I rest joyful. But because this is a tender piece of service, and that which was well directed by your M's high wisdom may be marred in the manage, and that I have been so happy as to have my poor service in this business of Ireland (which I have minded with all my powers, because I thought your estate laboured), graciously accepted by your sac. M, I do presume to present to your M's remembrance (whom I perceive to be one of the most truly politic princes that ever reigned, and the greatest height of my poor abilities is but to understand you well) some few points in a memorial enclosed, which I wish to be changed.

They tend to this scope principally; that I think it safest for your M. at this time, *hoc agere:* which is to effect that you may hold a Parliament in Ireland with sovereignty, concord and contentment, and moderate freedom, and so bind up the wound made, without clogging the commission with too many other matters, and to take in other points of the grievances but *obiter.* Whereas these instructions are so marshalled as if the grievances

[1] Addl. MSS. 19,402 fo. 77. Original: own hand.

were the principal; the grievances which were not commended to these messengers from the party in Ireland, but slept at least a month after their coming hither, and were but hatched by these busybodies as *fructus nimii otii*, and are divers of them of so vulgar a nature as they are complained of both in England and Ireland, and both now and at all times. For your M. to give way upon this ground to so particular an enquiry of all these points, I confess I think is *inferius Majestate*, for they are set down like interrogatories in a suit in law.

And my fear is they will call up and stir such a number of complaints and petitions, (which not being possible to be satisfied) this commission meant for satisfaction will end in murmur. But these things which I write are perhaps but my errors and simplicities. Your M's wisdom must steer and ballast the ship. So most humbly craving pardon I ever rest

Your Majesty's most devote
and faithful subject and servant,
Fr. Bacon.

13 Aug. 1613.

It may have been in consequence of this advice that the instructions were divided into two distinct sets, the first "concerning matters of Parliament," the second "concerning the general grievances of the kingdom." But I have no further information as to what was done with them during the fortnight which intervened before they were finally settled.[1]

4.

While the Commissioners were pursuing their investigation, another question growing incidentally out of the same business was referred to the Crown lawyers for an opinion in point of law; the report upon which seems to have been Bacon's last service as Solicitor General.

In a book recently published by Zuares, the Jesuit of Coimbra, the duty of faithful subjects towards heretical kings deprived by the Pope had been set forth very distinctly. Extracts from this book had been shewn by Archbishop Abbot to some members of the Irish deputation,[2] with demand to know what they thought of the doctrine laid down. Two of them, hesitating to repudiate it distinctly

[1] The Commission was dated 27th August 1613. The Commissioners did no arrive in Dublin till the 25th of September. *Desid. Cur. Hib.*, i. 283, 334.
[2] Gardiner, ii. p. 315.

enough, were committed to prison; and a question seems to have been raised, whether it would not be expedient in these circumstances to require them to take the oath of allegiance. The point referred to Hobart and Bacon was whether this could be done by law; and a report which I find among the State papers, dated 12th October 1613, contains their answer. To give an opinion on the *policy* of the proceeding was beyond their province; but from the terms in which they remind the Lords of the Council that that point is for them to consider, there is no difficulty in gathering what their opinion was.

OPINION OF THE LAW OFFICERS UPON THE LEGALITY OF EXACTING THE OATH OF ALLEGIANCE FROM IRISH SUBJECTS.[1]

It may please your Lordships,

We are of opinion that the Oath of Allegiance by law is not to be ministered to any his M. subjects in Ireland,—Parliament men or others,—by way of compulsion, because the Statute concerning the same is not in force there.

But we are of opinion that by the Statute 3° of his M's reign the said oath may be tendered to any of the Irish here, either by the Bishop of London or by two Justices of Peace (whereof one to be of the quorum), in case it shall appear by the parties' confession or otherwise that they have not received the communion twice this last year.

And by the Statute of 7°, two Justices of Peace, whereof one to be of the quorum, may tender the said oath unto them, without respect had whether they be noncommunicants or no.

Nevertheless whether it be convenient to minister it unto them, not being persons commorant or settled there, but only employed for the present business, we must leave it unto his M$^{ty's}$ and your Lps' better judgments.

HENRY HOBART. FRANCIS BACON.

Oct. 12th 1613.

The project of putting the English law with regard to the oath of allegiance in force against Irishmen who had been sent over on special business was, I presume, abandoned. It was resolved however to bring the case of one of these recusants before the Starchamber, for public hearing and censure; and I shall have to relate in the next chapter what became of it.

[1] S. P. Ireland, 1613. Copy in a modern hand. No heading or docket.

Meanwhile the Commissioners who had been sent over to Ireland to investigate the complaints made against the Government, proceeded with their work; and on the 12th of November sent in their report. Undue elections in two cases,—a few members returned by boroughs erected subsequently to the issue of the writs, or otherwise not duly entitled,—and considerable oppressions on the part of the soldiers (though without the countenance or knowledge of the Government),—seem to have been the sum of what they found substantiated. And since for all such complaints redress might have been sought in an orderly way, the complainants remained without any plausible justification of their late proceeding, and were obliged to submit. The seat of the disorder was indeed beyond the reach of argument or conciliation, and the present settlement was far from being a cure: but the Government so far prevailed for the time as to maintain their ground and try their experiment. The patience with which the remonstrants had been heard and the concessions which they had obtained, in the very stronghold of the enemy, had shewn them that to be in a minority was not to be powerless, and reconciled them to a trial of their strength in fair Parliamentary debate. It was not till the 12th of April 1614 that the King gave his formal answer to their complaints,[1] and some months more had to pass before the directions were issued which the report of the Commissioners rendered necessary. But all was done in time. Eight of the new boroughs had been erected subsequently to the writs of summons to the Parliament: from two others there had been false returns: and there were three besides which had no title to be represented at all. Orders were accordingly issued that none of the burgesses returned from any of these should take their seats in the present House. And at the same time a bill for the banishment of Catholic priests (which was to have been proposed, and the apprehension of which is believed to have been the real cause of the commotion) was withdrawn.[2] On these conditions the seceding members consented to take their places when the Parliament should be reassembled, to admit the representatives of the new boroughs as lawful members of the House, and (I suppose) to withdraw the objection which they had originally made against the boroughs themselves, as being too small and poor to furnish either constituencies or representatives of decent quality. For it is to be observed that this part of the grievance, though it held the most prominent place in the first complaints and was in itself (if truly alleged) by far the weightiest and most serious—for the others were functional and temporary, whereas this was organic and permanent,—was left unre-

[1] Desid. Curiosa Hibernica, i. 302. [2] Ibid. p. 325.

dressed, and yet no more noise was made about it. To conclude from this that the objection had been withdrawn as unfounded would perhaps be too much. But in the absence of all evidence as to the fact, other than sweeping assertions by parties who were not always careful to weigh their words—(for the question was not included among those referred to the Commissioners for investigation)—it is but fair to place by the side of the complaint the answer which the King gave to it; from which it will be seen that though the places may have been poor, the selection of them for boroughs may nevertheless have been politic, as tending to *draw* wealth and population towards the parts where it was wanted. "Because the eye of the master doth make the horse fat" (said the King) "I have used mine own eyes in taking a view of those boroughs, and have seen a list of them all. God is my judge, I find the new boroughs, except one or two, to be as good as many of the old boroughs, comparing Irish boroughs new with Irish boroughs old, for I will not speak of the boroughs of other countries: and yet besides the necessity of making them, I find them like to encrease and grow better daily. I find besides but few erected in each county, and in many counties but one borough only; *and those erected in fit and convenient places, near forts or passages for the safety of the country.* Methinks you that seek the good of the kingdom should be glad of it. I caused London also to erect boroughs there, which when they are thoroughly planted will be a great security for that part of the kingdom; therefore you quarrel at that which may bring peace to the country."[1]

5.

The reluctance of Coke to be promoted to the Chief Justiceship of England was at length overcome, and the other changes followed according to Bacon's suggestion. "On Monday," says Chamberlain, writing to Carleton on Wednesday the 27th of October, "the Lord Coke (though never so loth) was called up into the King's Bench, and there sworn Chief Justice. He parted dolefully from the Common Pleas, not only weeping himself but followed with the tears of all that Bench, and most of the officers of that Court. The next day Sir H. Hobart was made Chief Justice of the Common Pleas, Sir Francis Bacon Attorney, and Yelverton Solicitor. There is a strong apprehension that little good is to be expected by this change, and that Bacon may prove a dangerous instrument."[2]

It was probably at this time that Bacon wrote the following letter

[1] Des. Cur. Hib., i. 308.
[2] S. P. Dom. James I., vol. lxxiv. no. 89.

to the King; which comes from the collection at Lambeth. It is a copy or draft very hastily written in his own hand, and has no date. But it evidently refers to some promotion, and the word "procuration" is most proper to the place of Attorney-General.

To the King.

It may please your Ma.

A full heart is like a full pen; it can hardly make any distinguished work. The more I look into mine own weakness the more I must magnify your favours, and the more I behold your favours the more I must consider mine own weakness. This is my hope, that God who hath moved your heart to favour me will write your service in my heart. Two things I may promise; for though they be not mine own yet they are surer than mine own, because they are God's gifts; that is integrity and industry. And therefore whensoever I shall make my account to you, I shall do it in these words, *ecce tibi lucrifeci*, and not *ecce mihi lucrifeci*. And for industry, I shall take to me in this procuration not Martha's part, to be busied in many things, but Mary's part, which [is] to intend your service; for the less my abilities are the more they ought to be contracted *ad unum*. For the present I humbly pray your Majesty to accept my most humble thanks and vows as the forerunners of honest services which I shall always perform with a faithful heart.

Your Majesty's most obedient servant,

Fr. Bacon.

To reconcile Coke to his elevation, the King had been obliged to promise that "if he would accept it, he should do it with as much honour as ever any one went to that place;"[1] which was understood to be a promise of a Councillorship at the least. And accordingly on the 7th of November, as we learn from the same authority, "the Lord Coke (with many good and gracious words) was sworn a Privy Councillor; which honour no man envies him, if he keep in his right course, and turn not to be Attorney again."[2]

The occasion on which he received this last distinction was the ceremonial of creating Viscount Rochester Earl of Somerset; in preparation for his marriage with Lady Essex, whose divorce from her husband had at last been legally accomplished. The proceedings in

[1] Chamberlain to Carleton, 14 Oct. 1613.
[2] S. P. Dom. James I., vol. lxxv. no. 4. 11 Nov. 1613.

this case had kept both the Commissioners and the King very busy during the whole summer; but as Bacon had no part in them, either direct or indirect, I am happily relieved from the duty of saying more about them. Such a case could not be known to be going on without giving rise at the time to much discussion, many rumours, and strong feelings; and the curiosity of posterity has been gratified by abundant details. But what the outside world *knew* about it at the time, was only that after long investigation and argument before judges whose character and competency were not disputed, the majority had pronounced the previous marriage null and void. Not having heard the case, the public had not the means of criticising the judgment; and therefore even if it would have been otherwise their duty to judge the judges, it could not be their duty in this case at this time. "The marriage twixt the Earl of Essex and the Lady Frances Howard is dissolved," (writes Chamberlain on the 14th of October) "and pronounced a nullity, by the Bishop of Winchester, who with the Bishop of Rochester were only supernumerary to the first commissioners, and so cast the balance by weight of numbers, being seven to five. The morning that the matter was to be decided, the King sent express commandment that in opening they should not argue nor use any reasons, but only give their assent or dissent; and in the sentence there is no cause expressed but in these terms; *propter latens et incurabile impedimentum*."[1]

It is but fair to the world of rank, wealth, fashion, and business, which hastened soon after to congratulate the bride and bridegroom with gifts unprecedented in number and value, to remember that this was the result of the enquiry as far as it was made known to them. It does not follow that they would have done the same if they had known what we know.

The marriage took place on the 26th of December, and the festivities continued until Twelfth Night, when they were wound up with a complimentary offering from Bacon: an offering so costly, considering how little he owed to Rochester and how superficial their intercourse had been, and at the same time so peculiar, that it requires explanation.

The sort of terms upon which Bacon stood with Rochester may be inferred from the single letter which is known to have passed between them, and which has been already printed.[2] It is not possible to suppose that there had ever been any intimacy between them—any confidential correspondence or any interchange of services. Such a relation could not have subsisted between so considerable a man as

[1] S. P. Dom. James I., vol. lxxiv. no. 86.
[2] See above, p. 342.

Bacon and so great a person as Rochester, whom everybody was talking of and looking at, without being observed and remembered. If Bacon had had any influence with the man who for the last five or six years had kept the gate of the King's affections, he must have had very frequent occasions to use it—and to use it in a way which was sure to leave traces. The one letter about the Mastership of the Wards would have been one of many such. But there is no trace of anything of the kind. On the contrary, when he wants the King's favourable ear, he writes to the King himself, and begs that it may be in private. It seems, however, that in his recent promotion to the Attorney-Generalship Rochester had put himself forward as his patron. "I must never forget," says Bacon, writing to the King about two years after, "when I moved your Majesty for the Attorney's place, it was your own sole act; more than that Somerset, when he knew your Majesty had resolved it, thrust himself into the business for a fee." Now if, as I suppose, he stood on terms of courtesy with Somerset, though not of affection respect or confidence, it must have been unpleasant to owe even a seeming and pretended obligation to him. The approaching marriage gave him an opportunity to pay it off. While all the world were making presents,—one of plate, another of furniture, a third of horses, a fourth of gold,—he chose to present a masque: for which (if I have succeeded in filling up the blanks in the story correctly) an accident supplied him with a handsome opportunity. The year before, on occasion of the marriage of the Lady Elizabeth, two joint-masques had been presented by the Inns of Court,—one by the Middle Temple and Lincoln's Inn, the other by Gray's Inn and the Inner Temple. On the present occasion it had been proposed that all the four Inns of Court should join in getting up a masque. But it could not be managed: whereupon Bacon offered on the part of Gray's Inn to supply the place of it by a masque of their own.

All this, except the date (which must be matter of conjecture), appears from a letter in Bacon's own hand, which I printed in a former volume, supposing it to have been addressed to Burghley, but which, upon closer examination of the case before me, I now believe to have been addressed to Somerset. As a letter written to such a person on such an occasion, it acquires a new value and significance, giving fresh evidence both as to the tone of Bacon's intercourse with the favourite and as to the style in which he did this kind of thing. And therefore I reprint it here, being but a few lines, in what I suppose to be its true connexion. The fly-leaf being gone, the address is lost, and the docket does not supply it. There is

no date; and though the catalogue assumes that it was addressed to Lord Burghley, there is nothing remaining on the paper itself to justify the assumption. It is a single leaf,[1] and contains only the following words written in Bacon's hand.

It may please your good L.

I am sorry the, joint masque from the four Inns of Court faileth; wherein I conceive there is no other ground of that event but impossibility. Nevertheless, because it falleth out that at this time Gray's Inn is well furnished of gallant young gentlemen, your L. may be pleased to know that rather than this occasion shall pass without some demonstration of affection from the Inns of Court, there are a dozen gentlemen of Gray's Inn that out of the honour which they bear to your Lordship and my Lord Chamberlain, to whom at their last masque they were so much bounden, will be ready to furnish a masque; wishing it were in their powers to perform it according to their minds. And so for the present I humbly take my leave, resting

Your Ls very humbly
and much bounden
FR. BACON.

The Lord Chamberlain was the Earl of Suffolk, who was the bride's father: so that everything seems to fit. But though Bacon speaks of it as a compliment from Gray's Inn, Gray's Inn was in reality to furnish only the performers and the composers. The care and the charges were to be undertaken by himself; as we learn from a news-letter of Chamberlain's, whose information is almost always to be relied upon. Writing on the 23rd of December, 1613, he says:—

"Sir Francis Bacon prepares a masque to honour this marriage, which will stand him in above 2000*l.* And though he have been offered some help by the House, and specially by Mr. Solicitor, Sir Henry Yelverton, who would have sent him 500*l.*, yet he would not accept it, but offers them the whole charge with the honour. Marry his obligations are such, as well to his Majesty as to the great Lord and to the whole house of Howards, as he can admit no partner."

The nature of the obligation considered, it will be seen that there was judgment as well as magnificence in the choice of the retribution. The obligation (whether real or not) being for assistance in obtaining

[1] Lansd. MSS. cvii. f. 13.

an *office*, to repay it by any present which could be turned into money would have been objectionable, as tending to countenance the great abuse of the times (from which Bacon so far stands quite clear) —the sale of offices for money. There was no such objection to a masque. As a compliment, it was splendid, according to the taste and magnificence of the time; costly to the giver, not negotiable by the receiver; valuable as a compliment, but as nothing else. Nor was its value in that kind limited to the parties in whose honour it was given. It conferred great distinction upon Gray's Inn, in a field in which Gray's Inn was ambitious and accustomed to shine.

The piece performed was published shortly after, with a dedication to Bacon, as "the principal and in effect the only person that did both encourage and warrant the gentlemen to shew their good affection towards so noble a conjunction in a time of such magnificence; wherein" (they add) "we conceive, without giving you false attributes, which little need where so many are true, that you have graced in general the Societies of the Inns of Court, in continuing them still as third persons with the Nobility and Court in doing the King honour; and particularly Gray's Inn, which as you have formerly brought to flourish both in the ancienter and younger sort, by countenancing virtue in every quality, so now you have made a notable demonstration thereof in the lighter[1] and less serious kind, by this, that one Inn of Court by itself in time of a vacation, and in the space of three weeks, could perform that which hath been performed; which could not have been done but that every man's exceeding love and respect to you gave him wings to overtake Time, which is the swiftest of things." The dedicators (whom I suppose to be the authors) sign themselves J. G., W. D., and T. B.: and from an allusion to their "graver studies" appear to have been members of the Society. It is entitled "The Masque of Flowers," and may be seen in Nichols's Progresses:—a very splendid trifle, and answering very well to the general description in Bacon's Essays of what a Masque should be,—with its loud and cheerful music, abundance of light and colour, graceful motions and forms, and such things as "do naturally take the sense,"—but having no personal reference to the occasion, beyond being an entertainment given in honour of a marriage, and ending with an offering of flowers to the bride and bridegroom.

6.

Of serious business, the first piece that Bacon found waiting for him in his new office was an attempt to put a stop to the practice of

[1] Printed "later."

duelling, which had become alarmingly fashionable. "Though there be in shew a settled peace in these parts of the world," writes Chamberlain on the 9th of September, "yet the many private quarrels among great men prognosticate troubled humours, which may breed dangerous diseases, if they be not purged and prevented. I doubt not but you have heard the success of the combat 'twixt Edward Sackville and the Lord Bruce (or Kinlos), 'twixt Antwerp and Lille, wherein they were both hurt, the Lord Bruce to the death, so that Sackville was driven to take sanctuary, whence by corruption or connivance I hear he is escaped. Here is speech likewise that the Lord Norris and Sir Peregrine Willoughby are gone forth for the same purpose, and that the Lord Chandos and the Lord Hay are upon the same terms. There was a quarrel kindling 'twixt the Earls of Rutland and Montgomery; but it was quickly quenched by the King, being begun and ended in his presence. But there is more danger 'twixt the Earl of Rutland and the Lord Davers, though I heard yesterday it was already, or upon the point of compounding. But that which most men listen after, is what will fall out 'twixt the Earl of Essex and Mr. Henry Howard, who is challenged and called to account by the Earl for certain disgraceful speeches of him. They are both gotten over, the Earl from Milford Haven, the other from Harwich, with each of them two seconds . . . . The last news of them was that the Earl was at Calais and the other in Zealand. The King hath sent a post to Calais to the Governor, to stay them or either of them; and young Gib of the bedchamber is sent with commandment from the King to them both, if he come in time."[1]

On this last occasion the King published a Proclamation of his own composition, and then took advice with his lawyers as to the measures which should be taken to put a stop to this practice. An undated paper, printed in the first edition of Dalrymple's 'Memorials and Letters,'[2] from an original in Bacon's handwriting, belongs I suppose to this time and occasion. Whether it was before or after the King's proclamation (which came out near the end of October)[3] I cannot determine, for I do not know where a copy of that proclamation is to be found. Nor does it much matter, for this paper evidently contains either Bacon's answer to the King's question, what should be done for the prevention of the practice generally, or a suggestion of his own to the same effect.

[1] S. P. Dom. James I., vol. lxxiv. no. 56. [2] P. 51, ed. 1762.

[3] "I send you a Proclamation penned by the King's own hand about the late quarrel 'twixt the Earl of Essex and Mr. H. Howard." Chamberlain to Carleton 27 Oct. 1613.

A Proposition for the repressing of singular Combats or Duels.

First, for the ordinance which his Majesty may establish herein, I wish it may not look back to any offence past, for that strikes before it warns. I wish also it may be declared to be temporary, until a parliament; for that will be very acceptable to the parliament; and it is good to teach a parliament to work upon an edict or proclamation precedent.

For the manner; I should think fit there be published a grave and severe proclamation, induced by the overflow of the present mischief.

For the ordinance itself: first, I consider that offence hath vogue only amongst noble persons, or persons of quality. I consider also that the greatest honour for subjects of quality in a lawful monarchy, is to have access and approach to their sovereign's sight and person, which is the fountain of honour; and though this be a comfort all persons of quality do not use; yet there is no good spirit but will think himself in darkness, if he be debarred of it. Therefore I do propound that the principal part of the punishment be, that the offender (in the cases hereafter set down) be banished perpetually from approach to the courts of the King, Queen, or Prince.

Secondly, That the same offender receive a strict prosecution by the King's attorney, *ore tenus*, in the Star-Chamber; (for the fact being notorious, will always be confessed, and so made fit for an *ore tenus*.) And that this prosecution be without respect of persons, be the offender never so great; and that the fine set be irremissible.

Lastly, For the cases, that they be these following:

1. Where any singular combat, upon what quarrel soever, is acted and performed, though death do not ensue.

2. Where any person passeth beyond the seas, with purpose to perform any singular combat, though it be never acted.

3. Where any person sendeth a challenge.

4. Where any person accepteth a challenge.

5. Where any person carrieth or delivereth a challenge.

6. Where any person appointeth the field, directly or indirectly, although it be not upon any cartel or challenge in writing.

7. Where any person accepteth to be a second in any quarrel.

This advice was substantially acted upon. "His Majesty's edict and severe censure against private combats and combatants," etc. (which seems to have been meant for such a "grave and severe proclamation" as Bacon recommended) was published in the course of the autumn, and contained an explanation of the intentions of the Government much in accordance with his suggestions. The composition however having been left to the care and taste of the Earl of Northampton,[1] it is difficult to get at the matter for the art, and it can hardly have taken effect upon popular opinion. It was probably from a perception of this (though such a motive could not be declared) that Bacon took another course to make the determination of the Government in the matter known and respected. Sir Henry Hobart, when he was raised to the Bench, had in his hands a case of duelling. In what shape it came before him and how he proposed to treat it, we are not informed; but it was a case in point and ready for hearing. A challenge had been sent and refused. The persons were obscure, and there does not appear to have been anything in the circumstances to aggravate the offence, but it would serve the purpose of an example and (properly handled) of a proclamation. Bacon accordingly brought it before the Star chamber at the first sitting of the Court in Hilary Term (26 January 1613–4), and handled it so that the publication of his speech with the decree of the Court annexed (which was part of the order) formed an excellent declaration both of the state of the law with regard to challenges and the resolution of the Government to enforce it.

I reprint it from the original edition, which was published in 1614, with the following title:—"*The charge of Sir Francis Bacon, knight, his Majesties Attourney generall, touching Duells, upon an information in the Star-chamber against Priest and Wright. With the Decree of the Star-chamber in the same cause.*"

[1] "The proclamation about Duels had been published before this, but that I was desirous to give time to the last that was done by the King himself, that the subjects which are most remote might have time to rivet and imprint," etc. "When this impression is fully settled, *then will I bring my patch upon the stage*," etc. Northampton to Sir T. Lake, 18 Nov. 1613. S. P. Dom. James I.

The Charge of Sir Francis Bacon, Knight, his Majesty's Attorney-General, touching Duels; upon an Information in the Star-Chamber against Priest and Wright.

My Lords,

I thought it fit for my place, and for these times, to bring to hearing before your Lordships some cause touching private *Duels*, to see if this Court can do any good to tame and reclaim that evil which seems unbridled. And I could have wished that I had met with some greater persons, as a subject for your censure, both because it had been more worthy of this presence, and also the better to have shewed the resolution myself hath to proceed without respect of persons in this business: But finding this cause on foot in my predecessor's time, and published and ready for hearing, I thought to lose no time, in a mischief that groweth every day; and besides it passeth not amiss sometimes in government, that the greater sort be admonished by an example made in the meaner, and the dog to be beaten before the lion. Nay I should think (my Lords) that men of birth and quality will leave the practice, when it begins to be vilified, and come so low as to barbers surgeons and butchers, and such base mechanical persons.

And for the greatness of this presence, in which I take much comfort, both as I consider it in itself, and much more in respect it is by his Majesty's direction, I will supply the meanness of the particular cause, by handling of the general point; to the end that by occasion of this present cause, both my purpose of prosecution against *Duels* and the opinion of the Court (without which I am nothing) for the censure of them may appear, and thereby offenders in that kind may read their own case, and know what they are to expect; which may serve for a warning until example may be made in some greater person, which I doubt the times will but too soon afford.

Therefore before I come to the particular whereof your Lordships are now to judge, I think it time best spent to speak somewhat,

First, of the nature and greatness of this mischief.

Secondly, of the causes and remedies.

Thirdly, of the justice of the law of England, which some stick not to think defective in this matter.

Fourthly, of the capacity of this Court, where certainly the remedy of this mischief is best to be found.

And fifthly, touching mine own purpose and resolution, wherein I shall humbly crave your Lordships' aid and assistance.

For the mischief itself, it may please your Lordships to take into your consideration that when revenge is once extorted out of the magistrate's hand contrary to God's ordinance, *Mihi vindicta, ego retribuam,* and every man shall bear the sword not to defend but to assail, and private men begin once to presume to give law to themselves, and to right their own wrongs, no man can foresee the dangers and inconveniencies that may arise and multiply thereupon. It may cause sudden storms in Court, to the disturbance of his Majesty, and unsafety of his person. It may grow from quarrels to banding, and from banding to trooping, and so to tumult and commotion, from particular persons to dissension of families and alliances, yea to national quarrels, according to the infinite variety of accidents, which fall not under foresight: so that the state by this means shall be like to a distempered and unperfect body, continually subject to inflammations and convulsions.

Besides, certainly, both in divinity and in policy, *offences of presumption are the greatest.* Other offences yield and consent to the law *that it is good,* not daring to make defence, or to justify themselves; but this offence expressly gives the law an affront, as if there were two laws, one a kind of *gown-law,* and the other a law of *reputation,* as they term it; so that Paul's and Westminster, the pulpit and the courts of justice, must give place to the law (as the King speaketh in his proclamation) of *Ordinary* tables, and such reverend assemblies; the year-books and statute-books must give place to some French and Italian pamphlets, which handle the doctrine of *Duels,* which if they be in the right, *transeamus ad illa,* let's receive them, and not keep the people in conflict and distraction between two laws.

Again (my Lords) it is a miserable effect, when young men full of towardness and hope, such as the poets call *auroræ filii,* sons of the morning, in whom the expectation and comfort of their friends consisteth, shall be cast away and destroyed in such a vain manner; but much more it is to be deplored when so much noble and gentle blood shall be spilt upon such follies, as,

if it were adventured in the field in service of the King and realm, were able to make the fortune of a day, and to change the fortune of a kingdom. So as your Lordships see what a desperate evil this is; it troubleth peace, it disfurnisheth war, it bringeth calamity upon private men, peril upon the State, and contempt upon the law.

Touching the causes of it; the first motive no doubt is a false and erroneous imagination of honour and credit; and therefore the King, in his last proclamation, doth most amply and excellently call them *bewitching Duels*. For, if one judge of it truly, it is no better than a sorcery, that enchanteth the spirits of young men, that bear great minds, with a false shew, *species falsa;* and a kind of satanical illusion and apparition of honour; against religion, against law, against moral virtue, and against the precedents and examples of the best times and valiantest nations, as I shall tell you by and by, when I shall shew you that the law of England is not alone in this point.

But then the seed of this mischief being such, it is nourished by vain discourses, and green and unripe conceits, which nevertheless have so prevailed, as though a man were staid and sober-minded, and a right believer touching the vanity and unlawfulness of these *Duels*, yet the stream of vulgar opinion is such, as it imposeth a necessity upon men of value to conform themselves; or else there is no living or looking upon men's faces: So that we have not to do, in this case, so much with particular persons, as with unsound and depraved opinions, like the dominations and spirits of the air which the Scripture speaketh of.

Hereunto may be added, that men have almost lost the true notion and understanding of *Fortitude* and *Valour*. For *Fortitude* distinguisheth of the grounds of quarrels, whether they be just; and not only so, but whether they be worthy; and setteth a better price upon men's lives than to bestow them idly. Nay it is weakness and dis-esteem of a man's self, to put a man's life upon such ledgier performances. A man's life is not to be trifled away, it is to be offered up and sacrificed to honourable services, public merits, good causes, and noble adventures. It is in expense of blood as it is in expense of money. It is no liberality to make a profusion of money upon every vain occasion, nor no more it is fortitude to make effusion of blood, except the cause be of worth. And thus much for the causes of this evil.

For the remedies, I hope some great and noble person will put his hand to this plough, and I wish that my labours of this day may be but forerunners to the work of a higher and better hand. But yet to deliver my opinion, as may be proper for this time and place, there be four things that I have thought on, as the most effectual for the repressing of this depraved custom of particular combats.

The first is, that there do appear and be declared a constant and settled resolution in the State to abolish it. For this is a thing (my Lords) must go down at once, or not at all. For then every particular man will think himself acquitted in his reputation, when he sees that the State takes it to heart, as an insult against the King's power and authority, and thereupon hath absolutely resolved to master it; like unto that which was set down in express words in the edict of Charles the ninth of France touching *Duels, That the King himself took upon him the honour of all that took themselves grieved or interessed for not having performed the combat.* So must the State do in this business: and in my conscience there is none that is but of a reasonable sober disposition, be he never so valiant, (except it be some furious person that is like a firework) but will be glad of it, when he shall see the law and rule of State disinterest him of a vain and unnecessary hazard.

Secondly, care must be taken that this evil be no more cockered, nor the humour of it fed; wherein I humbly pray your Lordships that I may speak my mind freely, and yet be understood aright. The proceedings of the great and noble Commissioners Marshall I honour and reverence much, and of them I speak not in any sort; But I say the compounding of quarrels, which is otherwise in use, by private noblemen and gentlemen, it is so punctual, and hath such reference and respect unto the received conceits, what's before-hand, and what's behind-hand, and I cannot tell what, as without all question it doth in a fashion countenance and authorize this practice of *Duels*, as if it had in it somewhat of right.

Thirdly, I must acknowledge that I learned out of the King's last proclamation the most prudent and best applied remedy for this offence (if it shall please his Majesty to use it) that the wit of man can devise. This offence (my Lords) is grounded upon a false conceit of honour, and therefore it would be punished in

the same kind. *In eo quis rectissime plectitur, in quo peccat.* The fountain of honour is the King, and his aspect and the access to his person continueth honour in life, and to be banished from his presence is one of the greatest eclipses of honour that can be; if his Majesty shall be pleased that when this Court shall censure any of these offences in persons of eminent quality, to add this out of his own power and discipline, that these persons shall be banished and excluded from his Court for certain years, and the Courts of his Queen and Prince, I think there is no man that hath any good blood in him will commit an act that shall cast him into that darkness, that he may not behold his Sovereign's face.

Lastly, and that which more properly concerneth this Court, we see (my Lords) the root of this offence is stubborn; for it despiseth death, which is the utmost of punishments, and it were a just but a miserable severity, to execute the law without all remission or mercy, where the case proveth capital. And yet the late severity in France was more, where by a kind of martial law established by ordinance of the King and Parliament, the party that had slain another was presently had to the gibbet; insomuch as gentlemen of great quality were hanged, their wounds bleeding, lest a natural death should prevent the example of justice. But (my Lords) the course which we shall take is of far greater lenity, and yet of no less efficacy; which is to punish, in this Court, all the middle acts and proceedings which tend to the *Duel* (which I will enumerate to you anon), and so to hew and vex the root in the branches; which, no doubt, in the end will kill the root, and yet prevent the extremity of law.

Now for the law of England, I see it excepted to, though ignorantly, in two points:

The one, that it should make no difference between an insidious and foul murther, and the killing of a man upon fair terms, as they now call it.

The other, that the law hath not provided sufficient punishment and reparations for contumely of words, as the Lie, and the like.

But these are no better than childish novelties, against the divine law, and against all laws in effect, and against the examples of all the bravest and most virtuous nations of the world.

For first for the law of God, there is never to be found any

difference made in homicide, but between homicide voluntary and involuntary, which we term misadventure. And for the case of misadventure itself, there were cities of refuge; so that the offender was put to his flight, and that flight was subject to accident, whether the revenger of blood should overtake him before he had gotten sanctuary or no. It is true that our law hath made a more subtle distinction between the will inflamed and the will advised, between manslaughter in heat and murther upon prepensed malice, or cold blood, as the soldiers call it; an indulgence not unfit for a choleric and warlike nation; for it is true, *ira furor brevis;* a man in fury is not himself. This privilege of passion the ancient Roman law restrained, but to a case: that was, if the husband took the adulterer in the manner; to that rage and provocation only it gave way, that it was an homicide was justifiable. But for a difference to be made in case of killing and destroying man, upon a fore-thought purpose, between foul and fair, and as it were between single murther and vied murther, it is but a monstrous child of this later age, and there is no shadow of it in any law divine or human. Only it is true, I find in the Scripture that *Cain* inticed his brother into the field and slew him treacherously, but *Lamed* vaunted of his manhood *that he would kill a young man and if it were in his hurt:* So as I see no difference between an insidious murther and a braving or presumptuous murther, but the difference between Cain and Lamed.[1]

As for examples in civil states, all memory doth consent that Græcia and Rome were the most valiant and generous nations of the world; and, that which is more to be noted, they were free estates, and not under a monarchy, whereby a man would think it a great deal the more reason that particular persons should have righted themselves; and yet they had not this practice of *Duels,* nor anything that bare show thereof: and sure they would have had it, if there had been any virtue in it. Nay as he saith, *Fas est et ab hoste doceri,* it is memorable, that is reported by a counsellor and ambassador of the Emperor's, touching the censure of the Turks of these *Duels:* There was a combat of this kind performed by two persons of quality of the Turks, wherein one of them was slain, the other party was convented before the council of *Bassaes;* the manner of the repre-

[1] So in the original.

hension was in these words: *How durst you undertake to fight one with the other? Are there not Christians enough to kill? Did you not know that whether of you should be slain, the loss would be the Great Seigneours?* So as we may see that the most warlike nations, whether generous or barbarous, have[1] ever despised this wherein now men glory.

It is true (my Lords) that I find combats of two natures authorized, how justly I will not dispute as to the later of them.

The one, when upon the approaches of armies in the face one of the other, particular persons have made challenges for trial of valours in the field, upon the public quarrel.

This the Romans called *pugna per provocationem.* And this was never, but either between the generals themselves, who were absolute, or between particulars by licence of the generals; never upon private authority. So you see David asked leave when he fought with Goliah, and Joab, when the armies were met, gave leave, and said, *Let the young men play before us;* and of this kind was that famous example in the wars of Naples, between twelve Spaniards and twelve Italians, where the Italians bare away the victory; besides other infinite like examples worthy and laudable, sometimes by singles, sometimes by numbers.

The second combat is a judicial trial of right, where the right is obscure, introduced by the Goths and the Northern nation, but more anciently entertained in Spain; and this yet remains in some cases as a divine lot of battle, though controverted by divines touching the lawfulness of it. So that a wise writer saith, *Taliter pugnantes videntur tentare Deum, quia hoc volunt ut Deus ostendat et faciat miraculum, ut justam causam habens victor efficiatur, quod sæpe contra accidit.* But howsoever it be, this kind of fight taketh his warrant from law. Nay, the French themselves, whence this folly seemeth chiefly to have flown, never had it but only in practice and toleration, but never as authorized by law. And yet now of late they have been fain to purge their folly with extreme rigour, in so much as many gentlemen left between death and life in the *Duels* (as I spake before) were hastened to hanging with their wounds bleeding. For the State found it had been neglected so long, as nothing could be thought cruelty which tended to the putting of it down.

[1] *hath* in original.

As for the second defect pretended in our law, that it hath provided no remedy for *lies* and *fillips*, it may receive like answer. It would have been thought a madness amongst the ancient lawgivers, to have set a punishment upon the *lie given*, which in effect is but a word of denial, a negative of another's saying. Any lawgiver, if he had been asked the question, would have made Solon's answer: *that he had not ordained any punishment for it, because he never imagined the world would have been so fantastical as to take it so highly.* The civilians, they dispute whether an action of *injury* lie for it, and rather resolve the contrary. And Francis the first of France, who first set on and stamped this disgrace so deep, is taxed by the judgment of all wise writers for beginning the vanity of it; for it was he, that when he had himself given the lie and defy to the Emperor, to make it current in the world, said in a solemn assembly, *That he was no honest man that would bear the lie:* which was the fountain of this new learning.

As for words of *reproach* and *contumely* (whereof the lie was esteemed none) it is not credible (but that the orations themselves are extant) what extreme and exquisite reproaches were tossed up and down in the senate of Rome and the places of assembly, and the like in Græcia, and yet no man took himself fouled by them, but took them but for breath and the stile of an enemy, and either despised them or returned them, but no blood spilt about them.

So of every touch or light blow of the person, they are not in themselves considerable, save that they have got upon them the stamp of a disgrace, which maketh these light things pass for great matter. The law of England, and all laws, hold these degrees of injury to the person, *slander*, *battery*, *maim*, and *death*; and if there be extraordinary circumstances of despite and contumely, as in case of libels and bastinadoes, and the like, this Court taketh them in hand, and punisheth them exemplarly. But for this apprehension of a disgrace, that a fillip to the person should be a mortal wound to the reputation, it were good that men did hearken unto the saying of Consalvo, the great and famous commander, that was wont to say, *a gentleman's honour should be de tela crassiore*, of a good strong warp or web, that every little thing should not catch in it; when as now it seems they are but of cobweb-lawn or such light stuff, which certainly

is weakness, and not true greatness of mind, but like a sick man's body, that is so tender that it feels every thing. And so much in maintenance and demonstration of the wisdom and justice of the law of the land.

For the capacity of this Court, I take this to be a ground infallible; *that wheresoever an offence is capital, or matter of felony, if it be acted, there the combination or practice tending to that offence is punishable in this Court as a high misdemeanor.* So practice to impoison, though it took no effect; waylaying to murther, though it took no effect, and the like; have been adjudged heinous misdemeanors punishable in this Court. Nay inceptions and preparations in inferior crimes (that are not capital), as suborning and preparing of witnesses that were never deposed, or deposed nothing material, have likewise been censured in this Court, as appeareth by the decree in Garnon's case.

Why then, the major proposition being such, the minor cannot be denied: for every appointment of the field is but combination and plotting of murther; let them gild it how they list, they shall never have fairer terms of me in place of justice. Then the conclusion followeth, that it is a case fit for the censure of this Court. And of this there be precedents in the very point of challenge.

It was the case of Wharton, plaintiff, against Ellekar and Acklam defendants, where Acklam being a follower of Ellekar's, was censured for carrying a challenge from Ellekar to Wharton, though the challenge was not put in writing, but delivered only by word of message; and there are words in the decree, that such challenges are to the subversion of government.

These things are well known, and therefore I needed not so much to have insisted upon them, but that in this case I would be thought not to innovate any thing of mine own head, but to follow the former precedents of the Court, though I mean to do it more throughly, because the time requires it more.

Therefore now to come to that which concerneth my part; I say, that by the favour of the King and the Court, I will prosecute in this Court in the cases following.

If any man shall appoint the field, though the fight be not acted or performed.

If any man shall send any challenge in writing, or any message of challenge.

If any man carry or deliver any writing or message of challenge.

If any man shall accept or return a challenge.

If any man shall accept to be a second in a challenge of either side.

If any man shall depart the realm, with intention and agreement to perform the fight beyond the seas.

If any man shall revive a quarrel by any scandalous bruits or writings, contrary to a former proclamation published by his Majesty in that behalf.

Nay I hear there be some Counsel learned of *Duels*, that tell young men when they are before-hand, and when they are otherwise, and thereby incense and incite them to the Duel, and make an art of it; I hope I shall meet with some of them too: and I am sure (my Lords) this course of preventing Duels in nipping them in the bud, is fuller of clemency and providence than the suffering them to go on, and hanging men with their wounds bleeding, as they did in France.

To conclude, I have some petitions to make, first to your Lordship, my Lord Chancellor, that in case I be advertised of a purpose in any to go beyond the sea to fight, I may have granted his Majesty's writ of *Ne exeat regnum* to stop him, for this giant bestrideth the sea, and I would take and snare him by the foot on this side; for the combination and plotting is on this side, though it should be acted beyond sea. And your Lordship said notably the last time I made a motion in this business, that a man may be as well *fur de se*, as *felo de se*, if he steal out of the realm for a bad purpose; and for the satisfying of the words of the writ, no man will doubt but he doth *machinari contra coronam* (as the words of the writ be) that seeketh to murther a subject; for that is ever *contra coronam et dignitatem*. I have also a suit to your Lordships all in general, that for justice sake, and for true honour's sake, honour of religion, law, and the King our master, against this fond and false disguise or puppetry of honour, I may in my prosecution, which it is like enough may sometimes stir coals (which I esteem not for my particular, but as it may hinder the good service) I may (I say) be countenanced and assisted from your Lordships. Lastly, I have a petition to the noblesse and gentlemen of England, that they would learn to esteem themselves at a just price. *Non hos quæsitum munus*

in usus, their blood is not to be spilt like water or a vile thing; therefore that they would rest persuaded there cannot be a form of honour, except it be upon a worthy matter. But for this, *ipsi viderint*, I am resolved. And thus much for the general, now to the present case.

THE DECREE OF THE STARCHAMBER IN THE SAME CAUSE.

In Camerâ Stellatâ coram Concilio ibidem 26° *die Januarii, anno undecimo* Jacobi *regis.*

The Presence.

Tho: Lo: Ellesmere, Lord Chancellor of England.
Hen: Earl of Northampton, L. Privy Seal.
Charles Earl of Nottingham, Lo. high Admiral of England.
Tho: Earl of Suffolk, Lord Chamberlain.
Geor: Lo: Archbishop of Canterbury.
John Lo: Bishop of London.
Sir Edward Cooke, Knight, L. Chief Justice of England.
Sir Hen: Hobart, Knight, Lord Chief Justice of the Common-pleas.
Ed: Lord Zouche.
William: Lo. Knolles, Treasurer of the Household.
Edward Lo: Wotton, Controller.
Joh: Lo: Stanhop, Vicechamberlain.
Sir Julius Cæsar, knight, Chancellor of the Exchequer.

This day was heard and debated at large the several matters of informations here exhibited by *Sir Francis Bacon*, knight, his Majesty's Attorney-general, the one against *William Priest*, gentleman, for writing and sending a letter of challenge, together with a stick which should be the length of the weapon; and the other against *Richard Wright* esquire, for carrying and delivering the said letter and stick unto the party challenged, and for other contemptuous and insolent behaviour used before the Justices of Peace in Surrey at their sessions, before whom he was convented. Upon the opening of which cause, his Highness' said Attorney-general did first give his reason to the Court why in a case which he intended should be a leading case, for the repressing of so great a mischief in the commonwealth, and concerning an offence which reigneth chiefly amongst persons of

honour and quality, he should begin with a cause which had passed between so mean persons as the defendants seemed to be; which he said was done, because he found this cause ready published, and in so growing an evil he thought good to lose no time; whereunto he added, that it was not amiss sometimes to beat the dog before the lion; saying further, that he thought it would be some motive for persons of birth and countenance to leave it, when they saw it was taken up by base and mechanical fellows; but concluded, That he resolved to proceed without respect of persons for the time to come, and for the present to supply the meanness of this particular case by insisting the longer upon the general point.

Wherein he did first express unto the Court at large the greatness and dangerous consequence of this presumptuous offence, which extorted revenge out of the magistrate's hand, and gave boldness to private men to be lawgivers to themselves; the rather because it is an offence that doth justify itself against the the law, and plainly gives the law an affront; describing also the miserable effect which it draweth upon private families, by cutting off young men, otherwise of good hope; and chiefly the loss of the King and the commonwealth, by casting away of much good blood, which being spent in the field upon occasion of service, were able to continue the renown which this kingdom hath obtained in all ages of being esteemed victorious.

Secondly, his Majesty's said Attorney-general did discourse touching the causes and remedies of this mischief that prevaileth so in these times; showing the ground thereof to be a false and erroneous imagination of honour and credit, according to the term which was given unto those *Duels* by a former proclamation of his Majesty's, which called them *bewitching Duels*, for that it is no better than a kind of sorcery, which enchanteth the spirits of young men, which bear great minds, with a show of honour in that which is no honour indeed; being against religion, law, moral virtue, and against the precedents and examples of the best times, and valiantest nations of the world; which though they excelled for prowess and military virtue in a public quarrel, yet knew not what these private *Duels* meant; saying further, that there was too much way and countenance given unto these *Duels*, by the course that is held by noblemen and gentlemen in compounding of quarrels, who use to stand too

punctually upon conceits of satisfactions and distinctions, what is before-hand and what behind-hand, which do but feed the humour: Adding likewise that it was no fortitude to shew valour in a quarrel, except there were a just and worthy ground of the quarrel; but that it was weakness to set a man's life at so mean a rate as to bestow it upon trifling occasions, which ought to be rather offered up and sacrificed to honourable services, public merits, good causes, and noble adventures. And as concerning the Remedies, he concluded, That the only way was, that the State would declare a constant and settled resolution to master and put down this presumption in private men, of whatsoever degree, of righting their own wrongs; and this to do at once; for that then every particular man would think himself acquitted in his reputation, when that he shall see that the State takes his honour into their hands, and standeth between him and any interest or prejudice which he might receive in his reputation for obeying: whereunto he added likewise, that the wisest and mildest way to suppress these *Duels* was rather to punish in this Court all the acts of preparation which did in any wise tend to the *Duels* (as this of challenges and the like), and so to prevent the capital punishment, and to vex the root in the branches, than to suffer them to run on to the execution, and then to punish them capitally, after the manner of France: where of late times gentlemen of great quality, that had killed others in *Duel*, were carried to the gibbet with their wounds bleeding, lest a natural death should keep them from the example of justice.

Thirdly, his Majesty's said Attorney-general did by many reasons which he brought and alledged, free the law of England from certain vain and childish exceptions, which are taken by these *Duellists*: the one, because the law makes no difference in punishment between an insidious and foul murther, and the killing a man upon challenge and fair terms, as they call it; the other, for that the law hath not provided sufficient punishment and reparation for contumely of words, as the lie, and the like; wherein his Majesty's said Attorney-general did shew, by many weighty arguments and examples, that the law of England did consent with the law of God and the law of nations in both those points, and that this distinction in murther between foul and fair, and this grounding of mortal quarrels upon uncivil and reproachful words, or the like disgraces, was never authorised by

any law or ancient examples; but it is a late vanity crept in from the practice of the French, who themselves since have been so weary of it, as they have been forced to put it down with all severity.

Fourthly, his Majesty's said Attorney-general did prove unto the Court by rules of law and precedents, that this Court hath capacity to punish sending and accepting of challenges, though they were never acted nor executed; taking for a ground infallible, that wheresoever an offence is capital or matter of felony if it be acted and performed, there the conspiracy, combination, or practice tending to the same offence, is punishable as a high misdemeanor, although they never were performed. And therefore that practice to impoison, though it took no effect, and the like, have been punished in this Court; and cited the precedent in Garnon's case, wherein a crime of a much inferior nature, the suborning and preparing of witnesses, though they never were deposed, or deposed nothing material, was censured in this Court: whereupon he concluded, that for as much as every appointment of the field is in law but a combination of plotting of a murther, howsoever men might gild it, that therefore it was a case fit for the censure of this Court: and therein he vouched a precedent in the very point, that in a case between Wharton plaintiff, and Ellekar and Acklam defendants, Acklam being a follower of Ellekar had carried a challenge unto Wharton; and although it were by word of mouth, and not by writing, yet it was severely censured by the Court; the decree having words that such challenges do tend to the subversion of government. And therefore his Majesty's Attorney willed the standers by to take notice that it was no innovation that he brought in, but a proceeding according to former precedents of the Court, although he purposed to follow it more throughly than had been done ever heretofore, because the times did more and more require it. Lastly, his Majesty's said Attorney-general did declare and publish to the Court in several articles his purpose and resolution in what cases he did intend to prosecute offences of that nature in this Court; That is to say, that if any man shall appoint the field, although the fight be not acted or performed. If any man shall send any challenge in writing, or message of challenge; If any man shall carry or deliver any writing or message of challenge; If any man shall accept or return a challenge; If any man

shall accept to be a second in a challenge of either part; If any man shall depart the realm with intention and agreement to perform the fight beyond the seas; If any man shall revive a quarrel by any scandalous bruits or writings, contrary to a former proclamation published by his Majesty in that behalf; that in all these cases his Majesty's Attorney-general, in discharge of his duty, by the favour and assistance of his Majesty and the Court, would bring the offenders, of what state or degree soever, to the justice of this Court, leaving the Lords Commissioners Marshall to the more exact remedies; adding further, that he heard there were certain Counsel learned of *Duels*, that tell young men when they are beforehand, and when they are otherwise, and did incense and incite them to the *Duel*, and made an art of it, who likewise should not be forgotten; and so concluded with two petitions, the one in particular to the Lord Chancellor, that in case advertisement were given of a purpose in any to go beyond the seas to fight, there might be granted his Majesty's writ of *Ne exeat regnum* against him; and the other to the Lords in general, that he might be assisted and countenanced in this service.

After which opening and declaration of the general cause, his Majesty's said Attorney did proceed to set forth the proofs of this particular challenge and offence now in hand, and brought to the judgment and censure of this honourable Court; whereupon it appeared to this honourable Court, by the confession of the said defendant *Priest* himself, that he having received some wrong and disgrace at the hands of one *Hutchest*, did thereupon in revenge thereof write a letter to the said *Hutchest* containing a challenge to fight with him at single rapier, which letter the said *Priest* did deliver to the said defendant *Wright*, together with a stick containing the length of the rapier, wherewith the said *Priest* meant to perform the fight: whereupon the said *Wright* did deliver the said letter to the said *Hutchest*, and did read the same unto him; and after the reading thereof, did also deliver to the said *Hutchest* the said stick, saying that the same was the length of the weapon mentioned in the said letter. But the said *Hutchest* (dutifully respecting the preservation of his Majesty's peace) did refuse the said challenge, whereby no farther mischief did ensue thereupon. This honourable Court, and all the honourable presence this day sitting, upon grave and ma-

ture deliberation, pondering the quality of these offences, they generally approved the speech and observations of his Majesty's said Attorney-general, and highly commended his great care and good service in bringing a cause of this nature to public punishment and example, and in professing a constant purpose to go on in the like course with others: letting him know, that he might expect from the Court all concurrence and assistance in so good a work. And thereupon the Court did by their several opinions and sentences declare how much it imported the peace and prosperous estate of his Majesty and his kingdom to nip this practice and offence of *Duels* in the head, which now did overspread and grow universal, even among mean persons, and was not only entertained in practice and custom, but was framed into a kind of art and precepts: so that, according to the saying of the Scripture, *mischief is imagined like a law.* And the Court with one consent did declare their opinions: That by the ancient law of the land, all inceptions, preparations, and combinations to execute unlawful acts, though they never be performed, as they be not to be punished capitally, except it be in case of treason, and some other particular cases of statute law; so yet they are punishable as misdemeanors and contempts: And that this Court was proper for offences of such nature; specially in this case, where the bravery and insolency of the times are such as the ordinary Magistrates and Justices that are trusted with the preservation of the peace are not able to master and repress those offences; which were by the Court at large set forth to be not only against the law of God, to whom, and his substitutes, all revenge belongeth as part of his prerogative, but also against the oath and duty of every subject unto his Majesty; for that the subject doth swear unto him by the ancient law allegiance of life and member, whereby it is plainly inferred, that the subject hath no disposing power over himself of life and member to be spent or ventured according to his own passions and fancies; insomuch as the very practice of Chivalry in Justs and Tourneys, which are but images of martial actions, appear by ancient precedents not to be lawful without the King's licence obtained. The Court also noted, that these private *Duels* or combats were of another nature from the combats which have been allowed by the law as well of this land as of other nations for the trial of rights or appeals. For that those combats receive direction and

authority from the law; whereas these contrariwise spring only from the unbridled humours of private men. And as for the pretence of honour, the Court much misliking the confusion of degrees which is grown of late (every man assuming unto himself the term and attribute of honour) did utterly reject and condemn the opinion that the private *Duel*, in any person whatsoever, had any grounds of honour, as well because nothing can be honourable that is not lawful, and that it is no magnanimity and greatness of mind, but a swelling and tumour of the mind, where there faileth a right and sound judgment; as also for that it was rather justly to be esteemed a weakness, and a conscience of small value in a man's self to be dejected so with a word or trifling disgrace, as to think there is no recure of it, but by hazard of life; whereas true honour in persons that know their own worth is not of any such brittle substance, but of a more strong composition. And finally, the Court, showing a firm and settled resolution to proceed with all severity against these *Duels*, gave warning to all young noblemen and gentlemen, that they should not expect the like connivance or toleration as formerly have been, but that justice should have a full passage without protection or interruption: Adding that after a strait inhibition, whosoever should attempt a challenge or combat, in case where the other party was restrained to answer him (as now all good subjects are) did by their own principles receive the dishonour and disgrace upon himself. And for the present cause, the Court hath ordered, adjudged, and decreed, that the said *William Priest* and *Richard Wright* be committed to the prison of the *Fleet*, and the said *Priest* to pay five hundred pound, and the said *Wright* five hundred marks, for their several fines to his Majesty's use. And to the end that some more public example may be made hereof amongst his Majesty's people, the Court hath further ordered and decreed, that the said *Priest* and *Wright* shall at the next assizes to be holden in the county of Surrey, publicly in face of the Court, the Judges sitting, acknowledge their high contempt and offence against God, his Majesty, and his laws, and show themselves penitent for the same. Moreover, the wisdom of this high and honourable Court thought it meet and necessary that all sorts of his Majesty's subjects should understand and take notice of that which hath been said and handled this day touching this matter, as well by his

Highness' Attorney-general, as by the Lords Judges, touching the law in such cases. And therefore the Court hath enjoined Master Attorney to have special care to the penning of this decree, for the setting forth in the same summarily the matters and reasons which have been opened and delivered by the Court touching the same, and nevertheless also at some time convenient to publish the particulars of his speech and declaration, as very meet and worthy to be remembered and made known to the world, as these times are: And this decree being in such sort carefully drawn and penned, the whole Court thought it meet, and so have ordered and decreed, that the same be not only read and published at the next assizes for Surrey, at such time as the said *Priest* and *Wright* are to acknowledge their offences as aforesaid; but that the same be likewise published and made known in all shires of this kingdom. And to that end the Justices of Assize are required by this honourable Court to cause this decree to be solemnly read and published in all the places and sittings of their several circuits, and in the greatest assembly; to the end that all his Majesty's subjects may take knowledge and understand the opinion of this honourable Court in this case, and in what measure his Majesty and this honourable Court purposeth to punish such as shall fall into the like contempt and offences hereafter. Lastly, this honourable Court much approving that which the right honourable Sir Edward Coke, knight, Lord Chief Justice of England, did now deliver touching the law in this case of *Duels*, hath enjoined his Lordship to report the same in print, as he hath formerly done divers other cases, that such as understand not the law in that behalf, and all others, may better direct themselves, and prevent the danger thereof hereafter.

FINIS.

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